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## OSCE Yearbook 2006

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



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## Preface by the Chairman-in-Office

Chairing the OSCE is a challenging task, both politically and institutionally. Politically, because of the unresolved conflicts in which the OSCE has a role to play as mediator and because of the OSCE's endeavours to support democratization processes and respect for human rights in many countries. At the same time, the OSCE Chairmanship is a formidable undertaking from an institutional point of view. The OSCE is a rather unwieldy body with a broad, multidimensional mandate and a *modus operandi* based on co-operation among 56 equal partners. Nothing can be achieved by the will of the Chair alone. The OSCE rests fundamentally on consensus. And the goodwill and support of all participating States are essential.

The Ljubljana Ministerial Council of December 2005 gave us a mandate to pursue the ongoing discussions on institutional reform. This debate has been continuing for quite some time, and has threatened to paralyse the Organization. Thanks to the Ljubljana Meeting, we now have a roadmap to guide us in this undertaking. Merely having a map, however, is no guarantee that we will reach our destination.

The road itself remains difficult. As Chairman-in-Office, I believe there is undoubtedly room for improving the efficiency of the Organization. However, I doubt there is reason to profoundly alter the nature of the OSCE or to tamper with the delicate balance of power within it. Whatever differences and tensions may exist among the participating States, we must hold firm to that which binds us together, namely the fundamental values and commitments of the Helsinki Final Act and the Paris Charter. These are the bedrock of what we collectively stand for – or should stand for.

The most pressing question, therefore, is not whether we share common values and commitments, but how we can turn them into collective plans for action and implement these plans.

Election observation is a key task that the OSCE fulfils via the Office for Democratic Institutions and Human Rights (ODIHR) and the OSCE Parliamentary Assembly. It is a field in which the OSCE has acquired vast and internationally recognized expertise. It is also a common responsibility that is of direct concern to the OSCE as a whole and to each of its institutions. While election observation is part of the reform agenda, reform should be aimed at improving the implementation of existing commitments and the functioning of existing mechanisms to support participating States in the process of democratization.

The Belgian Chairmanship has had several additional priorities. One of these was to bring more balance to the OSCE's three traditional dimensions. All three are interlinked: There can be no effective and lasting democracy

without stability. Conversely, peace and security cannot be achieved without respect for democracy, civil liberties, and human rights. Finally, there can be no lasting stability without economic development.

The overall balance between the three “baskets” has been somewhat lost from sight over the past years. To put more “flesh on the bones” of the second dimension, we have chosen transport as the main theme for the 2006 Economic Forum. Economic co-operation and integration can contribute to regional security, and the OSCE is a useful platform to discuss problems and find solutions. In the light of current events, we believe that energy security is another area for dialogue and co-operation within the OSCE.

A second issue we have made a priority is the promotion of the rule of law and the fight against organized crime. This concerns all OSCE countries – East and West of Vienna. It is also of direct concern to our citizens. The fight against organized crime is not new to the OSCE, which has already developed action plans across its three dimensions: on combating human trafficking, the illegal trade in drugs and weapons, money laundering and corruption, and border management. The OSCE has initiated programmes to strengthen the rule of law and provide assistance for police and judiciary training. The ambition of the Belgian Chairmanship is to bring more coherence to the OSCE’s numerous activities in the field, and give them more substance and backbone.

With regard to the fight against trafficking in human beings, we have agreed to modify the relevant OSCE mechanism to ensure more effective action within a more coherent structure. The OSCE should be as effective as possible in promoting the fundamental right to human security. The tasks that need to be performed are not easy, but the commitment of the OSCE community to eradicating this vile form of exploitation is large enough to surmount institutional bickering and ideological differences.

I also want to emphasize the commitment of the Chairmanship to the promotion of tolerance and respect. The Ministerial Council in Ljubljana decided that the focus in 2006 should be on the implementation of the commitments made by participating States. We thus strived not only to keep tolerance high on the Organization’s agenda but also to put the agenda into action. Together with ODIHR, and with the support of the three Personal Representatives on Tolerance and Non-Discrimination, the Chairmanship remains fully committed to this task. It is no coincidence that our Chairmanship commenced with a ceremony commemorating the victims of the Holocaust. Also on the issue of tolerance, I had the privilege, together with the Secretary General of the OSCE, to deliver the OSCE’s contribution to the UN Secretary-General’s Alliance of Civilizations initiative.

Prominent on the OSCE’s task list are its role as mediator in what are often called the “frozen conflicts” and its role in promoting democracy, the rule of law, and respect for human rights in Eastern Europe, the South Caucasus, and Central Asia.

As an honest broker, the Belgian Chairmanship has been actively contributing to finding solutions to the frozen conflicts of Transdniestria, Nagorno-Karabakh, and South Ossetia. As Chairman-in-Office, I have travelled to all the countries concerned and met with their leaders, trying to facilitate the emergence of solutions. Whether and when solutions are found will depend on the presence of genuine willingness on the part of the principal parties involved.

A window of opportunity appeared to open earlier this year with regard to the Nagorno-Karabakh conflict. However, meetings between the presidents of Armenia and Azerbaijan in Paris and Bucharest failed to take advantage of this chance. Serious obstacles remain, but in a new meeting in Minsk, the parties seem to have made progress in finding a common understanding on principles that may bring a settlement closer.

In the Georgian-South Ossetian conflict, we have been urging all parties to return to the negotiating table while exercising restraint and refraining from any unilateral action that might worsen the situation. In June 2006, we held a donor conference in Brussels, where participating States pledged more than ten million euros for economic rehabilitation in the conflict zone. The meeting was the first of its kind for the OSCE and took place in the presence of all parties. It is our hope that the support gathered at the conference will help to build confidence between the parties and bring the settlement of the conflict closer.

In the Moldovan-Transdniestrian conflict, we have also been urging the parties to restart talks. Important developments have occurred since the start of 2006 with the introduction of the new customs regime and the deployment of the Border Assistance Mission of the European Union on the frontier between Moldova and Ukraine. This should bring greater transparency in trade flows. We believe that transforming the peacekeeping operation in Moldova into an internationally mandated and recognized mission could enhance security and stability. As the holder of the OSCE Chairmanship, we also did our utmost to create opportunities for a possible settlement of the status question.

During our Chairmanship, we have been committed to upholding the OSCE's common standards and values pertaining to human rights and democracy in all the participating States. In this respect, I commend and support the work of ODIHR, which plays an instrumental role in providing support for what we generally call institution building.

Democratization, rule of law, and respect for human rights are the main fields of action of the OSCE. I expressed my dismay at the flawed presidential elections in Belarus, in which opposition leaders and groups were denied their rights to free and fair participation. The events in the Uzbek city of Andijan raised grave concerns, and the resulting legal proceedings did not meet the standards required under OSCE commitments.

How do we, the OSCE as an Organization, work best to promote democratization, rule of law, and respect for human rights in countries that do not live up to the standards to which they are required to adhere as OSCE participating States? Dialogue and co-operation is the answer, but it must, of course, be a two-way street. The role of the Chairmanship is to facilitate this process, without compromising on our shared principles and commitments. At the same time, we must give full support to the OSCE field missions, which, in dialogue with the governments and civil societies of their host countries, contribute to democratic transition.

The OSCE is a living organization. Its agenda is and will always be a “work in progress”. The Chairman is far more a facilitator than a leader, and consensus is more than a decision-making process: It is a commitment to shared values and common standards, and a collective responsibility for co-operation and security. It has been an honour for me to be Chairman-in-Office of this great endeavour.

## Foreword

“Keeping the Organization together is in itself [...] an important objective to bear in mind.”<sup>1</sup> Although this statement may appear rather strange at first glance, it reflects a deadly serious state of affairs. OSCE Secretary-General, Marc Perrin de Brichambaut, was alluding to an issue that remains one of the most discussed in the OSCE: the Organization’s crisis. Despite the proliferation of reform proposals that aim to take the wind out of the critics’ sails and address the key criticisms made, there is still no end in sight. It has so far not proved possible to adequately – let alone convincingly – implement any of the initiatives so far proposed. As Heinrich Schneider’s comparative study “Long on Promise – Short on Impact” in the current volume, which analyses and evaluates four of the most important reform initiatives, concludes: “The meagreness of an entire year’s reform efforts must be a cause for concern, above all because there has never been a time when so many leading experts from various participating States have so unambiguously declared that the OSCE would inevitably lose its significance without rapid and thoroughgoing efforts to relieve the crisis.”<sup>2</sup> Kurt P. Tudyka, who looks back on the activities of the Slovenian Chairmanship, reaches a slightly milder conclusion: “The situation has become calmer. Expressions of willingness to reform the Organization have ameliorated contradictions, a common platform has been found, reform is no longer taboo.”<sup>3</sup> However, this still does not amount to real progress.

Nonetheless, criticism, self-criticism, and the need for reform should not draw our attention from the fact that the Organization – besides a certain amount of necessary introspection – also continues to perform numerous important tasks in the field of European security. This applies, in the first instance, to its traditional tasks of conflict prevention and crisis management, particularly in connection with the “frozen” conflicts, for which, despite every effort being made, no final – political – resolution can be foreseen, although it has often seemed that the end was in sight. It is, however, imperative that these conflicts be resolved as soon as possible. Marc Perrin de Brichambaut is not the only person to expressly warn of escalation as these conflicts heat up once again. “Not Frozen but Red Hot” is also the title of Marietta König’s contribution on the status of the conflicts in Georgia. With respect to Transdniestria, the long-serving Head of the OSCE Mission to

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1 The OSCE: Still tested as a toolkit for troubled times, Interview with the Secretary General, in: *OSCE Magazine*, October 2006, pp. 5-7, here: p. 6.

2 Heinrich Schneider, Long on Promise – Short on Impact: The OSCE Reform Initiative 2004-2005 and Its Results, in this volume, pp. 35-57, here: p. 57.

3 Kurt P. Tudyka, The Slovenian Chairmanship Has Steered the OSCE into Calm Waters – Is Land now in Sight? In this volume, pp. 23-34, here: p. 34.

Moldova, William H. Hill, reaches the rather discouraging conclusion that considerable work is ahead in restoring dialogue and reducing mistrust and hostility before there can be any thought of real progress. Finally, Rexane Dehdashti-Rasmussen subjects the negotiating process in the conflict over Nagorno-Karabakh to detailed and critical analysis.

The current OSCE Yearbook takes a special look at the Black Sea region. Elena Kropatcheva describes recent developments in Ukraine following the March 2006 parliamentary elections, and Peter Poptchev, *Chargé d’Affaires* of the Bulgarian Permanent Mission to the OSCE, outlines Bulgarian attitudes towards the OSCE. Ersan Bocutoğlu and Gökhan Koçer from Karadeniz Technical University in Trabzon, Turkey, analyse the economic aspects of conflicts in the Black Sea region, and Vladimir Ryabtsev of Russia’s Rostov State University poses the interesting and original question of whether a regional security system in the form of a “mini-OSCE” could be an appropriate response to the geopolitical characteristics of the region.

That an enormous amount remains to be done is true not only of the OSCE’s conventional functions, but also with regard to the “new challenges and threats” to security and related tasks that fall to the OSCE as a result. In this context, Karl E. Wycoff, Head of the Action against Terrorism Unit in the OSCE Secretariat, provides an overview of the OSCE’s work in support of the global fight against terrorism, while Vincent de Graaf and Annelies Verstichel consider the specific issue of police modernization. They discuss the “Recommendations on Policing in Multi-Ethnic Societies”, a “timely document relevant both East and West of Vienna” that was elaborated by internationally recognized independent experts under the auspices of the High Commissioner on National Minorities. The goal of this document is to help the police avoid generating negative reactions among national minority communities or even becoming a catalyst for conflict in situations of ethnic tension.

The OSCE’s success stories undoubtedly include its field operations: long-term missions, regional offices and centres, and other presences on the ground. Their frequently arduous close-quarter work is dedicated to building democratic institutions, consolidating the rule of law, encouraging respect for human rights, and many further valuable causes, and they are active, above all in transition countries and former war zones, in contributing to the creation of a sustainable peace. As always, a major portion of the Yearbook focuses on their work. This year, we consider the activities of the OSCE Spillover Mission to Skopje (Sebastian Dworack), the difficult relationship between Belarus and the OSCE and its impact on the work of the OSCE Office in Minsk (Eberhard Heyken), the role of the OSCE Mission to Moldova in the settlement of the Transdniestrian conflict, as mentioned above, and the work of the OSCE Office in Baku (Maurizio Pavesi). Completing this chapter, Tim Epkenhans, Director of the OSCE Academy in Bishkek, discusses

the OSCE's challenging role in Central Asia following the dramatic recent events in Kyrgyzstan and Uzbekistan.

The wide range of important, high-stakes, and often highly delicate issues dealt with in the OSCE's human dimension reflects the significance of this field of action. Anne-Marie Lizin, Special Representative of the President of the OSCE Parliamentary Assembly, has contributed a first-hand report on the situation in the Guantanamo Bay Detention Facility, thereby also demonstrating that the OSCE does address problems and situations "West of Vienna". As does ODIHR's Lydia Grigoreva, who provides a detailed survey of the death penalty in the OSCE area. Delia Rahmonova-Schwarz highlights the highly relevant issue of migration, while other contributions deal with Islam and Islamism in the Northern Caucasus and Central Asia (Emil Souleimanov/Slavomír Horák) and the interplay of OSCE standards and other systems of norms in the field of human rights protection (Hans-Joachim Heintze).

In the section on co-operative security, Helmut Kulitz from the Permanent Mission of Germany to the OSCE gives a detailed overview of the provisions of the OSCE Document on Stockpiles of Conventional Ammunition. Pointing out that the document continues the CSCE/OSCE's tradition of arms-control policy and therefore clearly contributes to revitalizing the Organization's politico-military dimension, the author also considers that pursuing this issue contains considerable potential to strengthen the Organization as a whole.

Several contributions in the current volume deal with organizational aspects of the OSCE. Andreas Nothelle, the Special Representative of the OSCE Parliamentary Assembly to the OSCE and Head of the PA Liaison Office, has written a comprehensive, in-depth analysis of the role of the OSCE Parliamentary Assembly as a driving force for reform. Nicole Watson discusses the promotion of gender equality within the OSCE. Benita Ferrero-Waldner, the European Commissioner for External Relations and European Neighbourhood Policy and OSCE Chairperson-in-Office in 2000, analyses opportunities for co-operation between the OSCE and the EU. And Frank Evers considers recent developments in the ASEAN Regional Forum and potential fields of co-operation with the OSCE.

The brutal murder of the incorruptible and exceedingly brave Russian journalist, Anna Politkovskaya, made shockingly clear that freedom of the media – and thus the rights to freedom of opinion and expression – is constantly under threat, also in the OSCE participating States; critical journalists may even be in danger of their lives. As recently as February 2003, the Secretary General of the OSCE Parliamentary Assembly's International Secretariat, R. Spencer Oliver, presented Anna Politkovskaya with the OSCE Prize for Journalism and Democracy. In October 2006, he was one of those who mourned at her funeral. Politkovskaya had been awarded the prize, which was established on the initiative of the first OSCE Representative on Free-

dom of the Media, Freimut Duve, and is awarded annually by the OSCE PA, for her courageous, unembellished reports from Chechnya. Her murder is further evidence of the importance of the work of the OSCE Representative on Freedom of the Media, which is discussed by Christian Möller in the current volume.

Like all its predecessors, the OSCE Yearbook 2006 seeks to maintain a balance between the perspectives of academics and those of practitioners. The contents reflect this mix of objective detachment, on the one hand, and detailed first-hand knowledge and practical relevance, on the other. Our goal is to contribute to the political and academic discussion of European security in national, regional, and international contexts and to create links between academic, diplomatic, and political circles and the public.

With their commitment, knowledge, and no shortage of expressive power, our authors have ensured that the Yearbook once more fulfils the many tasks it sets out to perform: as a record of events, a forum for discussion, and – hopefully – a source of original and valuable thoughts. For this, we would like to express our sincerest gratitude. We would also like to thank this year's OSCE Chairman-in-Office, Foreign Minister Karel De Gucht of Belgium, for his balanced preface, and to take this opportunity to thank the German Federal Foreign Office, which funds the printing of the Yearbook and some of the staff costs associated with its production, for its lasting support.

We end, as we started, with the words of the OSCE Secretary-General, Marc Perrin de Brichambaut: "The fascinating thing about the OSCE is that, in a way, it's a miracle that it continues to work."<sup>4</sup>

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4 Interview with the Secretary General, cited above (Note 1), p. 7.

I.

States of Affairs – Affairs of State



## OSCE: Developments and Prospects



## The Slovenian Chairmanship Has Steered the OSCE into Calm Waters – Is Land now in Sight?

In assuming the Chairmanship of the OSCE in 2005, Slovenia became the smallest of the Organization's 56 participating States so far to do so. Certainly, the assumption of such a function by a small country may pose problems for an international organization on account of a lack of personnel in the Foreign Ministry and other resources. On the other hand, there should be less potential for conflicts of interest and friction with other states than in the case of a country that seeks or is forced to play a major geopolitical role. As a result, the personnel of the Foreign Ministry of the smaller state could find they enjoy the necessary room for manoeuvre and, above all, the time to devote to the work of an international organization. Finally, historical problems in a country's bilateral relations can hamper the work of its representatives in international organization; the OSCE provides several clear examples. However, Slovenia's history as an independent state is short, if not entirely free from international conflict, created as it was by means of violent secession.

Slovenia is the first state to hold the OSCE Chairmanship that was not present in Helsinki in 1975 (simply because it did not exist). Thus another peculiarity about Slovenia is that it belongs to the group of new states that are not only younger than the CSCE/OSCE, but owe their existence to the failure of the CSCE's policy of maintaining the status quo, stabilization, and conflict prevention. By necessity, therefore, the Slovenian diplomatic service does not possess the tradition of other countries, which gives it a certain naïve charm and provides this relatively unknown quantity with an opportunity.

Understandably, Slovenian Foreign Minister, Dimitrij Rupel, did not mention this when giving his eloquent accession speech at the Permanent Council in Vienna on 13 January 2005, but rather stressed Slovenia's young membership of NATO and the EU, its dedication to stability and co-operation in Central and Eastern Europe, its friendship with its Eastern and Western neighbours, and its resolute support for multilateralism.<sup>1</sup>

The Chairman-in-Office supported the work of Andrzej Kasprzyk, his Personal Representative on the Conflict Dealt with by the OSCE Minsk Conference, i.e. the Nagorno-Karabakh conflict, and appointed Alojz Peterle as his Personal Representative for Central Asia. This reveals the priorities that Rupel set among the tasks that he found himself confronted with.

Alongside the OSCE's formal organs, during 2005, the work of the Chairmanship was accompanied by eleven groups and committees. Foremost among them in every respect was the Panel of Eminent Persons, whose seven

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<sup>1</sup> Cf. CIO.GAL/2/05, 13 January 2005.

members Rupel had himself appointed to draw up recommendations on how to solve the OSCE's institutional crisis. Naturally their results influenced the other bodies, such as the working group on OSCE legal capacity, which postponed its meetings to await the Panel's findings, the working group on OSCE reform, the informal groups of "Friends of the Chairman",<sup>2</sup> the working group on strengthening the effectiveness of the OSCE, and the Group of Friends of the Chair on the Enhancement of the OSCE Economic and Environmental Dimension. Other groups dealt with gender equality and human trafficking, combating terrorism, border issues, the Annual Security Review Conference, administration and finances, and the implementation of the Integrated Resource Management system (IRMA).

The Slovenian Foreign Minister, Dimitrij Rupel, assumed the OSCE Chairmanship at a time when the Organization's long-smouldering internal crisis had broken out into open conflict. No budget had been adopted, disunity reigned over the scale of contributions, personnel decisions were being blocked, and disputes among the participating States meant that, once again, there was a failure to agree on a joint declaration at the most recent Ministerial Council in Sofia; some of the participating States had challenged and called into question the Organization's activities, and even its very purpose and *raison d'être*. "A high-level debate about the relevance and fairness of the OSCE's work had created a sense of deep political crisis",<sup>3</sup> was how Rupel himself revealingly described the situation in retrospect. Nonetheless, it was in the character of the Slovenian Chairman-in-Office to remain optimistic.

### *The Slovenian Programme*

Slovenia's Foreign Minister Rupel announced that his Chairmanship would pursue a "triple R agenda" under the three headings of "Revitalize", "Reform", and "Rebalance". By "revitalize", he meant primarily reaching agreement on the budget and the scale of contributions; "reform" referred to redefining the OSCE's priorities and strengthening relations between the Secretariat and the Chairmanship; and "rebalancing" concerned paying greater attention to all three OSCE dimensions. In the politico-military dimension, he listed the following priority tasks: combating terrorism, tackling the problem of surplus stocks of conventional ammunition, small arms and light weapons, discussing military doctrine, and completing the development of a concept

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2 For more information on this institution, see: Kurt P. Tudyka, *The Dutch Chairmanship: From Porto to Maastricht*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2004, Baden-Baden 2005*, pp. 433-445, here: p. 436.

3 Organization for Security and Co-operation in Europe, *Thirteenth Meeting of the Ministerial Council, 5 and 6 December 2005, Ljubljana 2005*, MC13EW66, 6 December 2005, Activity Report of the Chairman-in-Office, pp. 83-102, here: p. 83. The document is available at: [http://www.osce.org/documents/mcs/2005/12/18653\\_en.pdf](http://www.osce.org/documents/mcs/2005/12/18653_en.pdf).

for border security and management. He also announced that it was necessary to strengthen the economic and environmental dimension and stressed his openness to new initiatives in that area, such as by convening a conference on energy security. He underlined the central role of the human dimension and declared trafficking in human beings, migration, and integration to be priorities for the Slovenian Chairmanship.

The Chairman-in-Office also announced his intention to appoint a Panel of Eminent Persons in accordance with the Decision of the Sofia Ministerial Council.

After cautiously outlining this selection of practical tasks, he turned to the regional “frozen” conflicts to whose resolution the Slovenian Chairmanship wished to contribute. He first mentioned the positive results of co-operation between the OSCE and Ukraine during the Ukrainian constitutional crisis, arguing that this co-operation should be strengthened. Consolidating the OSCE’s work in the Balkans was named a further key focus, with the Chairman noting that the OSCE should concentrate on the areas in which it can have the greatest effect: refugee return, protection of national minorities, capacity building – particularly in the judiciary and police – and elections. Kosovo, where the OSCE plays a major role, was also named a priority area for the OSCE’s activities in 2005. It was, however, not apparent whether the Chairman-in-Office was seeking a shift in emphasis – or even a relocation – of OSCE field activities from the Balkans to Central Asia, as had been proposed by others, including his predecessors. While he did not forget to address the conflict hot-spots and crisis areas in the South Caucasus (Nagorno-Karabakh, and South Ossetia and Abkhazia in Georgia), Moldova, and Central Asia generally, there was no evidence of prioritization.

Finally, Rupel identified the strengthening of co-operation with other organizations as a further item on his working programme, and argued that the OSCE should also pay more attention to regions outside the OSCE area. In this connection, he mentioned his support for the organization of elections in Afghanistan, and for ODIHR to send an assessment team to the Palestinian Territories.

#### *The Activities of the Chairman-in-Office*

In a typical year, an OSCE Chairman is required to attend conferences, take part in meetings, and hold discussions with government officials from OSCE participating States and representatives of international organizations. Whether routine activities or one-off events, virtually none of these take place in the Chairman-in-Office’s own capital and few in Vienna. As a result, the Chairman-in-Office is required to undertake a great deal of travel. The Chairmanship of Dimitrij Rupel proved no exception to this general rule, and

Dr Rupel proved willing to make strenuous journeys to less “comfortable” missions in problematic OSCE States.

In the first half of 2005, in particular, the Chairman made a large number of visits as a result of ongoing or emerging crises in the long-acknowledged problem areas of Central Asia and the South Caucasus. These visits had not only a crisis management function, but also served to encourage democratic and rule-of-law reform or to support promising proposals for resolving long-running conflicts, such as the Armenian-Azerbaijani conflict or the conflict in Moldova. In February, Dimitrij Rupel visited Kazakhstan, where, according to his statement, the observance of democratic standards was less than satisfactory. Kazakhstan had banned an opposition party and adopted restrictive new media laws and laws against extremism. The Kazakh parliamentary elections of 2004 had also been criticized by ODIHR. On the other hand, Rupel praised the progress that had been made, specifically in the fight against terrorism, and promised support for media law reform. After all, Kazakhstan is applying for the OSCE Chairmanship in 2009. From Kazakhstan, Rupel moved on to Uzbekistan, where he criticized the deficits in democratic development with respect to freedom of the media, the judicial system, and the use of torture in prisons, as well as addressing the negative assessment of the latest parliamentary elections. He also promised OSCE support to the government in Tashkent in areas such as improving the electoral system and reforming the economy.

The appointment of the former Slovenian Prime Minister and Minister for Foreign Affairs Alojz Peterle as the Chairman’s Personal Representative for Central Asia can also be considered in this context. He was presented by Dr Rupel during this trip. In the following months, Peterle was to be kept unexpectedly busy with the crisis in Kyrgyzstan.

In March, Rupel visited Moldova and spoke with both conflict parties in Chişinău and Tiraspol, continuing the commendable efforts of his predecessors to bring about compromise and rapprochement between the conflict parties. At the end of March, the crisis in Kyrgyzstan began to dominate the Chair’s activities. Rupel travelled to Bishkek himself and Peterle repeatedly interposed as a mediator at the heart of the near-civil-war conditions that accompanied the end of the Akaev era, where his considerable personal commitment had a preventive effect.

In late March, Rupel travelled to Kosovo. In early April, he visited Yerevan, Baku, and Tbilisi, using this occasion to call for a new meeting – the twelfth since 1994 – between the presidents of Armenia and Azerbaijan. It was hoped that an agreement would be easier to achieve in a year without elections. Unfortunately, this did not prove to be the case.

In April, Rupel visited Serbia and Montenegro and Albania, and then returned to Kyrgyzstan, Tajikistan, and Turkmenistan, which he at least wanted to encourage to take an active part in OSCE activities. After all, following a long period of absence, Turkmenistan had taken part in the most re-

cent Human Dimension Implementation Meeting in Warsaw. In September, Rupel revisited the three countries of the South Caucasus. In October, he travelled to Bosnia and Herzegovina and Macedonia, then on to Belgrade and Priština, and finally back to Chişinău and Kiev.

Besides visiting the OSCE's crisis regions, Rupel also attended conferences and other events, where he represented the OSCE and gave the Chairman's perspective on current developments. The Chairman's participation in a number of OSCE events as a matter of tradition is self-explanatory. This year, these included the annual OSCE Economic Forum in Prague in late May, the OSCE Conference on Anti-Semitism and Other Forms of Intolerance in Cordoba in early June, the Annual Security Review Conference in Vienna at the end of June, the meetings of the Parliamentary Assembly of the OSCE in Vienna in late February and in Washington in early July, and the OSCE Mediterranean Seminar in Rabat in early September.

The attendance of the Chairman-in-Office was also required at the meetings of the OSCE-EU Troika, held in 2005 at the end of March in Brussels and in mid-September in New York. Rupel had several other meetings with representatives of EU organs, for instance, with the foreign ministers in Luxemburg in April, and with the Commission in Brussels in November. Contacts with the Council of Europe are also part of the Chairman's compulsory programme. At the end of February, he gave a speech in Strasbourg; in mid-May, at the summit in Warsaw; and in mid-November, again to the Committee of Ministers in Strasbourg. A focus of the discussions was once again the avoidance of duplication. As the OSCE Chairman-in-Office, Rupel was invited to attend NATO's North Atlantic Council meeting in Brussels in late January, the NATO Parliamentary Assembly in Ljubljana at the end of May, and the Euro-Atlantic Partnership Council meetings in Åre in May and Brussels in November.

Because the OSCE considers itself a regional arrangement of the United Nations, and is recognized as such by the UN, a minimum of communication is required between the two, if only to maintain formal contacts. Rupel addressed the Security Council in New York in early March, and the Human Rights Committee in Geneva in mid-March. In mid-September, he attended the summit in New York to mark 60 years of the United Nations.

Maintaining good relations with the OSCE partners for co-operation in Asia – Japan, South Korea, Thailand, Mongolia, and Afghanistan – was the reason for the Chairman's attendance at the international security conference in Seoul at the end of April. His appearance at the Central Europe Initiative (CEI) in Piestany at the end of November, on the other hand, can be partly accounted for by his role as Slovenian foreign minister. He paid his respects to the governments in Washington, at the start of March, and Moscow, in mid-July. In June, he visited the British prime minister in London.

This busy schedule of visits accounts for by no means all of the travelling undertaken by the OSCE Chairman. During his year in Office, he con-

tinued to present papers at academic conferences. Finally, the events held in Helsinki, Berlin, and Vienna in late July and early August to celebrate the 30th anniversary of the signing of the CSCE Final Act took up considerable time, though less demanding in terms of their subject matter.

The huge amount of travelling done by the Chairman allows us to conclude that the performance of this function depends on mobility. One could perhaps playfully suggest that the real essence of the Chairman's function could be better expressed by dropping the first two letters of his title.

### *The Ljubljana Ministerial Council*

As with any club or association, the most important date in the OSCE's year, and that of its Chairman, in particular, is the "annual general meeting" of its members. The results of the year are considered, the members reflect on the past twelve months, and guidance is sought for the year ahead. At the 13th Meeting of the Ministerial Council in Ljubljana on 5-6 December 2005, most OSCE participating States were represented by their foreign ministers. Three declarations were adopted and 19 decisions were made. They were not the most significant thing about the meeting, however, which rather lay in the noticeably improved communication between the representatives of the participating States.

The Ministerial Council adopted a Declaration on the 20th Anniversary of the Disaster at the Chernobyl Nuclear Power Plant,<sup>4</sup> a Statement on Georgia,<sup>5</sup> and a Statement on the Conflict Dealt with by the OSCE Minsk Group.<sup>6</sup> The Chairman announced that the Ministerial Statement on the International Convention for the Suppression of Acts of Nuclear Terrorism had been adopted by the Ministerial Council through the silence procedure,<sup>7</sup> and launched the adoption of the Border Security and Management Concept by the Ministerial Council.<sup>8</sup> The adoption of this concept was praised by the delegations, namely the European Union, that expect more secure and open borders together with a framework for enhancing co-operation between the participating States "in the fight against the scourges of terrorism and organized crime".<sup>9</sup>

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4 *Thirteenth Meeting of the Ministerial Council*, cited above (Note 3), Ministerial Declaration on the 20th Anniversary of the Disaster at the Chernobyl Nuclear Power Plant, MC.DOC/3/05 of 6 December 2005, pp. 2-3.

5 *Ibid.*, Statement on Georgia, MC.DOC/4/05 of 6 December 2005, pp. 4-5.

6 *Ibid.*, Statement on the Conflict Dealt with by the OSCE Minsk Group, MC.DOC/5/05 of 6 December 2005, p. 6.

7 *Ibid.*, Ministerial Statement on the International Convention for the Suppression of Acts of Nuclear Terrorism, MC.DOC/1/05 of 20 June 2005.

8 *Ibid.*, Border Security and Management Concept, MC.DOC/2/05 of 6 December 2005, pp. 9-15.

9 *Ibid.*, Statement by the European Union, Annex 4 to MC(13) Journal No. 2 of 6 December 2005, pp. 71-72, here: p. 71.

Several of the following decisions had a purely formal character: The French diplomat Marc Perrin de Brichambaut, who was already active in his new role, was officially appointed for three years as Secretary General of the OSCE with retroactive effect from 21 June 2005; Finland was formally entrusted with the 2008 OSCE Chairmanship; and it was agreed to hold the 14th Ministerial Council Meeting in Belgium on 5 and 6 December 2006.<sup>10</sup> Equally formal was the decision to task the Permanent Council, the Secretary General, and the relevant OSCE institutions and structures to continue the work they commenced in 2005 on the topic of migration in all three dimensions and to report to the 14th Ministerial Council Meeting.<sup>11</sup> The decision to continue to make efforts to implement the OSCE documents on small arms and light weapons and stockpiles of conventional ammunition and to charge the Forum for Security Co-operation with drawing up a progress report also had a formal character.<sup>12</sup>

The participating States then made a number of appeals in which they call upon themselves to undertake or refrain from undertaking a particular action. For instance, in the decision on a comprehensive document on combating transnational organized crime, they “urged” the participating States to enhance co-operation between themselves and the UNODC, the Council of Europe, and other international organizations with reference to the relevant UN conventions and protocols, and other decisions, conferences, meetings, and seminars.<sup>13</sup> The decision on enhancing legal co-operation in criminal matters to counter terrorism belongs in the same category. It asks participating States to collectively act to extradite or prosecute perpetrators, organizers, supporters, and sponsors of terrorist acts. It also tasks the Secretary General with organizing an expert workshop and national training seminars for prosecutors and judicial officials on extradition and mutual legal assistance.<sup>14</sup>

A further appellative decision was passed on combating the threat of illicit drugs.<sup>15</sup> In it, the participating States called upon themselves to enhance their co-operation to prevent and counter the threat of the production of and trafficking in illicit drugs and tasked the Secretary General with organizing another expert workshop in 2006.

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10 Ibid., Decision No. 1/05, Appointment of the OSCE Secretary General, MC.DEC/1/05 of 6 December 2005, p. 19; Decision No. 18/05, OSCE Chairmanship in the Year 2008, MC.DEC/18/05 of 6 December 2005, p. 61; Decision No. 19/05, Time and Place of the Next Meeting of the OSCE Ministerial Council, MC.DEC/19/05 of 6 December 2005, p. 62.

11 Ibid., Decision No. 2/05, Migration, MC.DEC/2/05 of 6 December 2005, pp. 20-21.

12 Ibid., Decision No. 8/05, Further Efforts to Implement the OSCE Documents on Small Arms and Light Weapons and Stockpiles of Conventional Ammunition, MC.DEC/8/05 of 6 December 2005, pp. 32-33.

13 Ibid., Decision No. 3/05, Combating Transnational Organized Crime, MC.DEC/3/05 of 6 December 2005, pp. 22-23.

14 Ibid., Decision No. 4/05, Enhancing Legal Co-operation in Criminal Matters to Counter Terrorism, MC.DEC/4/05 of 6 December 2005, pp. 24-26.

15 Ibid., Decision No. 5/05, Combating the Threat of Illicit Drugs, MC.DEC/5/05 of 6 December 2005, pp. 27-28.

Another appeal is the decision to support the implementation of Resolution 1540 (2004) of the United Nations Security Council on the threat posed by the proliferation of weapons of mass destruction and their delivery systems.<sup>16</sup> Thankfully, the OSCE did make one new departure by adopting the decision on measures to enhance container security. It calls upon all participating States to implement the measures recommended in the Framework of Standards to Secure and Facilitate Global Trade of the World Customs Organization (WCO).<sup>17</sup>

A decision with greater political relevance was that on the OSCE seminar on military doctrine in Vienna on 14-15 February 2006. The Ministerial Council explicitly welcomed it as “as a means to enhance the security dialogue and the work of the FSC”.<sup>18</sup> The seminar should be seen as a concession towards the Russian Federation with respect to its demands to strengthen the politico-military dimension of the OSCE.

The extensive decision on “tolerance and non-discrimination: promoting mutual respect and understanding” can be considered the counterpoint to this in the human dimension. In addition to adopting a number of normative statements, by passing this decision, the Ministerial Council decided to support the ODIHR programme on tolerance and non-discrimination, adding that “the OSCE should continue to raise awareness and develop measures to counter prejudice, intolerance and discrimination”.<sup>19</sup> The Ministerial Council tasked ODIHR with, among other things, assisting the participating States in developing the means to collect and maintain reliable information and statistics on hate crimes and violent manifestations of intolerance and discrimination.

A number of further decisions were passed in connection with the human dimension, dealing with, among other topics: promoting human rights education and training;<sup>20</sup> upholding human rights and the rule of law in criminal justice systems;<sup>21</sup> combating trafficking in human beings;<sup>22</sup> and promoting gender equality in conflict prevention, crisis management, and post-conflict rehabilitation in order to raise the number of women in the OSCE Secretariat, institutions, and field operations, particularly among senior staff

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16 Ibid., Decision No. 7/05, Supporting the Effective Implementation of UN Security Council Resolution 1540 (2004), MC.DEC/7/05 of 6 December 2005, p. 31.

17 Ibid., Decision No. 6/05, Further Measures to Enhance Container Security, MC.DEC/6/05 of 6 December 2005, pp. 29-30.

18 Ibid., Decision No. 9/05, OSCE Seminar on Military Doctrine, MC.DEC/9/05 of 6 December 2005, p. 34.

19 Ibid., Decision No. 10/05, Tolerance and Non-Discrimination: Promoting Mutual Respect and Understanding, MC.DEC/10/05 of 6 December 2005, pp. 35-39, here: p. 36.

20 Ibid., Decision No. 11, Promotion of Human Rights Education and Training in the OSCE Area, MC.DEC/11/05 of 6 December 2005, pp. 40-41.

21 Ibid., Decision No. 12/05, Upholding Human Rights and the Rule of Law in Criminal Justice Systems, MC.DEC/12/05 of 6 December 2005, pp. 42-43.

22 Ibid., Decision No. 13/05, Combating Trafficking in Human Beings, MC.DEC/13/05 of 6 December 2005, pp. 44-45.

and decision makers.<sup>23</sup> A further and particularly comprehensive decision dealt with preventing and combating violence against women. The Ministerial Council urged the participating States, “with the support and assistance of the OSCE, to take all necessary legislative, policy and programmatic monitoring and evaluation measures to promote and protect the full enjoyment of the human rights of women and to prevent and combat all forms of gender-based violence against women and girls”.<sup>24</sup>

A decision on the integrity of OSCE personnel, unfortunately necessary as a result of recent abuses, called for measures to ensure the highest standards of conduct and accountability among members of international peacekeeping forces and missions. In this decision, the Ministerial Council calls upon the participating States “to improve, where necessary, measures to prevent military and civilian personnel deployed abroad to peacekeeping forces or other international missions, as well as OSCE officials, from engaging in trafficking in human beings or exploiting victims of trafficking”.<sup>25</sup>

The decision on strengthening the effectiveness of the OSCE is potentially explosive and deals with issues at the heart of much contemporary criticism of the OSCE. In it, the Ministerial Council calls upon the Permanent Council to continue its reform work and report to the 2006 Ministerial Council. Drawing on the considerations of the Panel of Eminent Persons, further attention is to be paid to the following areas:<sup>26</sup>

- Rules of procedure;
- Improving the consultative process;
- Improving the planning and efficiency of OSCE conferences;
- Strengthening the efficiency, effectiveness and transparency of the Organization’s activities, including their budgetary and extra-budgetary financing;
- Considering ways to further enhance the role of the Secretary General, including through further strengthening the co-operation with the heads of institutions and of field operations;
- Modernizing the Secretariat to further improve its capacity to support the Chairmanship-in-Office and the participating States and to co-ordinate OSCE activities.

The list also includes a number of tasks that some but certainly not all participating States would like to be considered:

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- 23 Ibid., Decision No. 14/05, Women in Conflict Prevention, Crisis Management and Post-Conflict Rehabilitation, MC.DEC/14/05 of 6 December 2005, pp. 46-49.
- 24 Ibid., Decision No. 15/05, Preventing and Combating Violence against Women, MC.DEC/15/05 of 6 December 2005, pp. 50-54, here: p. 50.
- 25 Ibid., Decision No. 16/05, Ensuring the Highest Standards of Conduct and Accountability of Persons Serving on International Forces and Missions, MC.DEC/16/05 of 6 December 2005, pp. 55-56, here: p. 56.
- 26 Cf. *ibid.*, Decision No. 17/05, Strengthening the Effectiveness of the OSCE, MC.DEC/17/05 of 6 December 2005, 57-60, here: p. 58.

- Strengthening the effectiveness of the OSCE institutions and field operations;
- Examining the possibility of providing the OSCE with legal status and granting privileges and immunities;
- Further improving the programme planning, so that it may better reflect the Organization's priorities;
- Improving the professionalism of OSCE personnel and the management of its human resources, with due regard to the gender and geographical balance;
- Considering the possibility of thematic missions in an OSCE-wide or subregional context.

In a move that takes up the criticism of ODIHR emanating from the CIS countries, ODIHR is tasked to report to the next Ministerial Council on the implementation of existing commitments and ways of strengthening its election-related activities.<sup>27</sup>

The surprising consensus among the members of the Panel of Eminent Persons naturally had a positive effect on the atmosphere in which the ministers met, and they were even able to agree on a "roadmap" for dealing with the Panel's report. The agreement on the scale of contributions had an equally harmonizing effect, as did the bilateral agreement between the Russian Federation and Georgia on the withdrawal of Russian troops stationed in Georgia.<sup>28</sup> The agreement on the Statement on Nagorno-Karabakh announcing that the parties to the conflict were prepared to move on from the negotiating phase to the decision-making phase also had a positive effect.

There was an almost ritual disagreement over the same questions that had been the stumbling blocks to consensus – and thus to a joint Ministerial declaration – in the last three Ministerial Council Meetings, so that the Chairman-in-Office, like his forerunners, was forced to make use of his privilege of presenting the draft of the document as his personal statement.<sup>29</sup> Disunity continued to reign between the Russian Federation and the NATO states over the controversial commitments entered into by the States Parties to the CFE Treaty at Istanbul in 1999, specifically over the requirement for the withdrawal of Russian forces from Moldova in 2005 and the linkage of this commitment with the entry into force of the Adapted CFE Treaty. The Third CFE Review Conference, which was to be held in Vienna in June 2006 with the aim of strengthening the treaty regime, thus received an early setback six months prior at Ljubljana. It was not to recover from this blow and

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<sup>27</sup> Cf. *ibid.*, pp. 58-59.

<sup>28</sup> Agreement between Georgia and Russia on Terms and Rules of Temporary Functioning and Withdrawal of the Russian Military Bases and Other Military Facilities of the Group of Russian Military Forces in South Caucasus Deployed on the Territory of Georgia, at: [http://www.mfa.gov.ge/index.php?lang\\_id=ENG&sec\\_id=78&info\\_id=900](http://www.mfa.gov.ge/index.php?lang_id=ENG&sec_id=78&info_id=900).

<sup>29</sup> *Thirteenth Meeting of the Ministerial Council*, cited above (Note 3), Statement by Dr. Dimitrij Rupel, Chairman-in-Office of the OSCE, Annex 2 to MC(13) Journal No. 2 of 6 December 2005, pp. 66-69.

eventually failed. The entry into force of the adapted treaty would have made it possible for new states to sign up to it. A similar fate befell the attempt to secure agreement on a decision welcoming the conclusion of the first phase of implementation of the Treaty on Open Skies and the positive assessment it received from that treaty's First Review Conference in 2005.

To the disappointment of most delegations, the problem of Moldova was not addressed. Nor did the Kosovo question receive a mention, even though the Russian delegation had wanted to raise it in reference to the fourth principle of the Helsinki Final Act – territorial integrity.<sup>30</sup> It may well have been possible to formulate a statement on Moldova that all could have agreed upon, but any such hopes were ultimately dashed on the intransigence of the Transdniestrian separatists, who required the help of their Russian patrons to resist this. According to the lengthy statement of the Moldovan delegation, the Transdnistria issue could have been brought closer to resolution via democratization and demilitarization of the region. In Moldova's view, the ultimate goal of the negotiations should have been to determine the special legal status of the Transdniestrian region within the Republic of Moldova. The documents adopted by the Moldovan Parliament on 10 June 2005 and the Law on Basic Principles of the Special Legal Status of the Localities on the Left Bank of the Nistru/Dniestr River (Transdnistria) of 22 July would have provided the framework for a settlement.<sup>31</sup>

Nevertheless, at least the Russian Federation – unlike, for instance, the USA – did not issue a so-called “interpretative statement” and welcomed, in particular, the consensus achieved over reform. That was made easier for Russia by the Slovenian Chairmanship, which was prepared – as were other delegations – to admit one of Russia's criticisms, namely that election monitoring was in need of reform, such as the deployment of more highly qualified election observers who are fluent in the language(s) of the host country or the creation of a fund that would facilitate the participation of observers from poorer countries.

At the very least, the Ministerial Council of Ljubljana indicated that the crisis of the OSCE has not worsened.

### *Retrospective and Summary*

The Slovenian Chairmanship is proud of the results achieved during its term of office.<sup>32</sup>

The existing “external” crises remained, and new ones emerged. No conflict is close to resolution, but at least discussions continued. In the case

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30 Cf. Statement by the Delegation of the Russian Federation, Annex 5 to MC(13) Journal No. 2 of 6 December 2005, pp. 73-73, here: p. 74.

31 Cf. Statement by the Delegation of Moldova, Annex 6 to MC(13) Journal No. 2 of 6 December 2005, p. 75.

32 These sentiments were expressed to the author by the Chairman's staff.

of Moldova, an agreement appeared again to be imminent. The disappointment was thus all the greater when the five meetings between the presidents, at which the OSCE was a mediator alongside the Russian Federation and Ukraine, failed to achieve their goal.<sup>33</sup> While the “Prague Process” on Nagorno-Karabakh continued, it was overshadowed by worrying armament programmes on both sides. The Chairmanship had negative experiences with Uzbekistan. The Moscow mechanism was invoked, but failed. Elections in Kazakhstan and Azerbaijan gave cause for criticism.

Internally, the OSCE successfully achieved stabilization. The atmosphere has improved, and a corresponding number of substantive organizational achievements have been made: the agreement on the unified budget; the resolution of the problems over the scale of contributions, at least for now; the appointment of a new Secretary General; and the renewal of the contract of the director of ODIHR.

The situation has become calmer. Expressions of willingness to reform the Organization have ameliorated contradictions, a common platform has been found, reform is no longer taboo. Yet the good will of the OSCE community will not suffice if those who steer it from their capital cities do not provide it with a role apart from NATO and the EU. The OSCE is still looking for a new driving force.

At the end of its Chairmanship, Slovenia became a member of the Troika, the body that advises every Chairman-in-Office on how to steer the OSCE. For the first time in its history, the 2006 Troika consists entirely of EU members. Will this affinity benefit the OSCE?

The more fundamental question continues to lurk in the background: What is the OSCE to become more efficient for? After the Ljubljana Ministerial Council, this question was rightly raised in public.<sup>34</sup> The Slovenian Chairman steered the OSCE ship from stormy seas into calmer waters and handed the tiller over to his Belgian successor along with this question. The journey continues for the time being. It is to be hoped that the crew can find a course that will bring all the passengers safely to harbour.

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33 Cf. CIO.GAL/10/05, 2 February 2005.

34 Reinhard Veser, *Effizienter, aber wozu?* [More efficient, but what for?], in: *FAZ*, 5 December 2005, p. 6.

## Long on Promise – Short on Impact: The OSCE Reform Initiative 2004-2005 and Its Results

### *An Overdue Initiative*

“Crisis” has been the central concept in virtually all analyses of the OSCE and its activities in recent years. Demands for (and expectations of) a determined effort to overcome the crisis are longstanding. In December 2004, the Twelfth Ministerial Council in Sofia took the initiative by establishing a “Panel of Eminent Persons” tasked with improving the Organization’s effectiveness. It was asked to present its report – including reform proposals – by the end of June 2005. “High-Level Consultations” would be held to discuss the results of this and any other contributions, and the results of this process, including the recommendations derived from it, were to be submitted to the 2005 Ministerial Council by the Permanent Council to form the basis for appropriate resolutions.

The High-Level Consultations were held in Vienna on 12 and 13 September 2005. They discussed the Panel’s report, “Common Purpose: Towards a More Effective OSCE”,<sup>1</sup> and several further documents, including:

- The Report on the Colloquium on “The Future of the OSCE” held in Washington on 5-6 June 2005 and jointly organized by the OSCE Parliamentary Assembly (OSCE PA) and the Swiss Foundation for World Affairs.<sup>2</sup>
- A statement by the Russian Deputy Foreign Minister Vladimir Chizhov on the problems of the OSCE.<sup>3</sup>

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1 Common Purpose – Towards a More Effective OSCE. Final Report and Recommendations of the Panel of Eminent Persons On Strengthening the OSCE, 27 June 2005, reprinted in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2005*, Baden-Baden 2006, pp. 359-379. The report is hereafter referred to as “Common Purpose”.

2 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, reprinted in: *OSCE Yearbook 2005*, cited above (Note 1), pp. 381-388, hereafter referred to as “Future Colloquium”. The fact that this event took place in Washington should not be taken as indicating any special link between this event and the official OSCE policy of the USA. It is more likely that the intention of the organizers was to raise interest in and awareness of the OSCE among the US political and media establishments. The Report on the Colloquium was written by Ambassador Gérard Stoudmann (the former Director of the OSCE’s Office for Democratic Institutions and Human Rights/ODIHR) and Spencer Oliver (the Secretary General of the OSCE PA) and approved by top-level representatives of both organizers.

3 *Remarks by Deputy Minister of Foreign Affairs of the Russian Federation Vladimir Chizhov at the International Roundtable Meeting on the Theme of “The 30th Anniversary*

- A report, entitled “Managing Change in Europe”, by the Centre for OSCE Research (CORE) at the Institute for Peace Research and Security Policy at the University of Hamburg/IFSH.<sup>4</sup>

A number of states had sent additional participants to the High-Level Consultations, and there was wide variation in format among the different national representations.<sup>5</sup> The topics covered included “Purpose and Priorities”<sup>6</sup> and “Structures, Procedures and Practices”.<sup>7</sup> The list of topics was chosen on the basis of the preparatory contributions.

*Prominent Elements of the Situation Prior to the September 2005 Consultations in Vienna*

There was one thing that virtually all the parties involved agreed on before the September consultations started: If substantial reforms were not made soon, the OSCE would lose its significance. The critical state of the Organization had long been visible in a number of ways:

- A Summit Meeting of OSCE Heads of State or Government is actually supposed to be held every two years. However, none has been held since Istanbul (1999). Washington has refused to agree to hold a Summit on the grounds that there were not enough draft decisions of substance to justify it. This indicates a loss of importance in the eyes of the USA.
- Russia’s interest in the OSCE had been declining even more dramatically for years. That became clear when Moscow’s attempts to expand the CSCE into what Russia considered a fully developed organization with a decisive role in a pan-European security architecture – on the basis of binding international law, with definite responsibilities, and a supreme steering body similar to the United Nations Security Council –

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*of the Helsinki Final Act and the Problems of the OSCE”, Moscow, June 2, 2005, Press Release, 6 June 2005, at: [http://www.rusembcanada.mid.ru/pr/060605\\_1.html](http://www.rusembcanada.mid.ru/pr/060605_1.html).*

4 *Managing Change in Europe – Evaluating the OSCE and Its Future Role: Competencies, Capabilities, and Missions*, compiled by Wolfgang Zellner, CORE Working Paper No. 13, Hamburg 2005. On 22 July 2005, it was distributed within the OSCE by the Permanent Representation of Finland as Document PC.DEL/784/05 (the Finnish Foreign Ministry had proposed and financially supported the project). This report is also reprinted in the OSCE Yearbook 2005, cited above (Note 1), pp. 389-430. In the following, it will be referred to as “Managing Change”.

5 There were 30 US participants and only five from Russia.

6 Matters considered under this heading included the OSCE’s position in the European security architecture, the Organization’s identity and profile, its comprehensive approach to security, and co-operation with states and non-state actors.

7 Questions of consultative and decision-making procedures, clarifying the roles of the Chairman-in-Office and the Secretary General, the structures and working methods of the OSCE’s other institutions and its field missions, and the problem of the relations between the three dimensions were dealt with under this heading.

failed. The disappointment came as early as 1994, when NATO announced its imminent enlargement and Russia had to make do with the relatively worthless consolation prizes it was handed at the Budapest Summit.<sup>8</sup>

As a consequence, Russian dissatisfaction at the tendency to instrumentalize the OSCE in ways favourable to the USA and NATO became ever more apparent. It was also expressed regularly when Russia refused or delayed its consent to draft decisions that had been endorsed by a majority, and to demand reforms that would remove what it considered imbalances.<sup>9</sup>

- The annual Ministerial Council has ended on a number of occasions without agreement being reached on a common declaration.<sup>10</sup>
- On several occasions, the OSCE has failed to reach agreement on its budget before the start of the new budgetary year. This has had a negative effect on the Organization's credibility, operations, and the morale of its workforce.
- The reduction in expenditure attests to a decline in the willingness of the participating States to pay.<sup>11</sup>

As obvious as the crisis and the need for reform were, it was always uncertain whether it would be possible to reach agreement on how to interpret the symptoms and underlying causes of the crisis and on what measures would be best suited to alleviating it.

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8 Specifically, the renaming of the CSCE as the OSCE (which was, however, linked to the assurance that nothing would change in terms of legal form, structure, and working methods) and the inauguration of a debate on a new security model for the 21st century, which led to the adoption of a "Charter for European Security" in 1999, although this fell far short of Russian expectations.

9 Cf. Alexander Matveev, The OSCE Identity Crisis, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1999*, Baden-Baden 2000, pp. 59-78, which has a subsection entitled "Broken Promises, Shattered Principles" (p. 60). Cf. also Andrej Zagorski, Russland und die OSZE: Erwartungen und Enttäuschungen [Russia and the OSCE: Expectations and Disappointments], in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg/IFSH (ed.), *OSZE-Jahrbuch 1995*, Baden-Baden 1995, pp. 109-119; cf. also Andrei V. Zagorski, Russia's OSCE Policy in the Context of Pan-European Developments, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1997*, Baden-Baden 1998, pp. 45-51.

10 The first time was at the 2000 Vienna Ministerial Council. Positions acceptable to the majority were entered into the records as the Statement by the Chairperson-in-Office. Cf. Statement by the Chairperson-in-Office, reproduced in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2001*, Baden-Baden 2002, pp. 481-495, including the Interpretative Statement by the Delegation of the Russian Federation (pp. 490-491). For a view of the Ministerial Council as proof that the OSCE is in crisis, see: Victor-Yves Ghebali, The Vienna Ministerial Council Meeting and Its Aftermath: Coping with the Russian Malaise, in: *ibid.*, pp. 29-38.

11 The 2005 budget was six per cent lower than that of the previous year. Funds set aside for field operations declined by an even greater twelve per cent, although ODIHR's budget enjoyed an 18 per cent increase.

Nevertheless, a number of key conditions necessary for reform were mentioned in all or nearly all preparatory documents, even if their weighting differed from case to case. Even before the 2004 Ministerial Council, the proposals in question had already been made on many occasions and were almost approaching the status of clichés. That was true of the following statements (among others):

- (1) The OSCE had failed to (adequately) take account of the transformation of the general security environment. The Organization needed to adapt in ways that went beyond the superficial.
- (2) The political will of a number of participating States to take the OSCE seriously, and therefore to conform to its fundamental principles and norms and to make optimal use of its established mechanisms and instruments, has declined or vanished entirely. In other words, the normative power of the OSCE's governing principles and rules has diminished, at least in some capital cities.

It would therefore be desirable to reinforce the normative power of these principles and norms; at least via an emphatic reaffirmation of the decisions upon which they are based (e.g. in the form of a Ministerial Council or Summit Decision), but possibly also via the granting of binding force under international law (e.g. in the form of a convention).

- (3) The relative weighting of the various fields of activity is contestable and requires adjustment, as is the balance between the activities carried out in each area (or the OSCE's traditional "dimensions").
- (4) The system of institutions and procedures requires a major overhaul to improve both efficiency and effectiveness.

Behind these theses, there are a further set of claims on a more fundamental level, which are not always expressed openly. They are based on differing motivations and perceptions of interest, on the one hand, and on the balance of power, on the other (although these two aspects are related).

- (5) The original reasons for the inauguration of the CSCE process and the establishment of the CSCE/OSCE regime have long lost much of their motivating force. They are no longer able to ensure a level of loyalty to the Organization and its regime that will remain effective when self-interest tempts a country to be less than stringent in the application of its commitments, to implement them selectively, or to disregard them entirely.
- (6) The original balance of power among the participating States of the CSCE appeared to make regime-building measures that would promote stabilization advisable in the eyes of key players.

This need ceased to exist a while ago, firstly, because the unstable stalemate no longer exists in the same form, and, secondly, because the

current stabilization regime has lost much of its value in the face of new threats and risks.

As a result, the OSCE system appears well positioned to serve specific interests (of great powers, alliances, or groups of states), or to be reinterpreted or restructured in ways that abet such instrumentalization.<sup>12</sup> However, efforts of this kind would inevitably arouse the displeasure of those participating States who would see their interests damaged by them.

This leads to another, absolutely tangible, conclusion, which was also addressed prior to the September consultations, admittedly – in line with diplomatic practice – not always with explicit mention of the actors involved:

- (7) The core element of the crisis lies in a conflict of interests between two unequally large coalitions, led by the USA and the Russian Federation, respectively. The positions taken by the USA are supported by a majority of participating States. Because of the continuing application of the consensus principle, however, Russia and its sympathizers can block any attempts at reform. Russia is particularly prone to making use of its *de facto* veto when it estimates that reform proposals with majority support are detrimental to its interests, but it also blocks measures to express its general reservations regarding current OSCE policy.

This suggested that reform efforts should be oriented not only on improving the prerequisites for efficiency and effectiveness of the OSCE and its institutional and operational form, but rather focus directly on mediating between the viewpoints of the USA and its allies, on the one hand, and Russia and its sympathizers, on the other. It was no coincidence that several of the preparatory documents mentioned above were elaborated with the participation of exponents of both contrary positions, and, at times, it appeared that each package of proposals had been composed with the aim, first, of toning down items that one side would find unpalatable and, second, making them easier to swallow by linking them to proposals in which the party perceiving a disadvantage had a positive interest. This formula has proved itself time and time again from the start of the CSCE process, so it appeared appropriate to

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12 This is admittedly only the revival of a strategy that was practised effectively in the CSCE's early days: From the start, the CSCE process was characterized by "antagonistic co-operation", within which, on the one hand, tendencies towards destabilization were to be brought under control and rules for a *modus vivendi* developed and practised, while, at the same time, each of the blocs aimed to strengthen its own position and hence to skew the mutual interdependency in its own favour. In Moscow, this was spoken of openly from the start: The aim was to make of Europe a "continent of peaceful coexistence"; at the same time, however, it was believed that peaceful coexistence between Imperialist and Socialist states would only function when the balance of power was such that the Imperialist powers were no longer able to exercise their imperialistic policies in accordance with the logic of Imperialism.

apply it once more. In taking this route, however, the danger is that too much emphasis may be laid on a limited number of superficial positive and negative concerns leaving the underlying problems untouched.

#### *A Broader Look at the Challenges of OSCE Reform*

To the masterminds of the consultations on OSCE reform, it appeared that a necessary condition for success was to overcome the antagonism between the two main opposed positions. Whether it would be sufficient is another matter.

In order to judge this, we must recall the challenges the OSCE needed to overcome to escape from the unsatisfactory situation it found itself in.

The suggestions made on this matter below are brief and incomplete; furthermore, they offer nothing new – after all, there has been a great deal of discussion of new challenges and risks in the fifteen plus years since the collapse of Communism.

There is no reason to repeat the oft-stated and obvious truth that the overall security situation has changed considerably over time, and that this makes it necessary to re-examine the OSCE's tasks, working methods, and instruments. To reach agreement on specific and substantive consequences, however, requires a certain consensus on what the key changes are.

A number of processes, which either led to changes in the context in which the OSCE has to successfully operate, or modified the opportunities available to the Organization, deserve to be mentioned. Only by looking at them all together and considering their relative weights can one gain a true understanding of the challenges facing the OSCE.

In the early days of the CSCE, security was seen as being endangered above all by tensions and threats among participating States. This has changed in several ways: The threats that require dealing with now are by no means limited to “inter-state” conflicts, and not all – perhaps not even the bulk – emanate from within the OSCE area itself.

However, such generalizations cannot provide any useful information about the requirements for OSCE reform. It is necessary to differentiate, as follows:

- In the early days of the CSCE, the opposing parties in the Cold War practised “antagonistic co-operation”, while the third caucus, the neutral and non-aligned states, attempted to offer their good offices, to mediate, and to strengthen the CSCE system.

This was followed by a phase of co-operation between the former antagonistic camps, which was greeted with an exaggerated euphoria, although major players had different conceptions of how it should develop.

Since then, as already noted, a new and significantly asymmetrical polarization has emerged, characterized, in particular, by the United States' tendency towards global hegemony, which is viewed with unease in Russia (and not necessarily only there), but readily accepted by other states (e.g. in Central Europe).

- The fear of escalating tensions or even war between the former alliances, and the interest (which varied from state to state) in pursuing *détente* or at least achieving a reliable *modus vivendi* no longer exist; this is not affected by the above-mentioned polarization.

In the meantime, other concerns have come to dominate, specifically with regard to new conflicts (which tend to be intra-state or transnational rather than international), in which new (or previously less significant) actors are involved – from frustrated members of ethnic or other minorities, via parties in civil wars and wars of succession or would-be warlords, to transnational terrorist networks, not to mention criminal organizations and networks of various kinds. New structures of conflict and categories of actor call for new measures of prevention and resolution.

- The extent to which concern at these new threats to security can create a sufficient sense of a common interest on which to base more intensive co-operation remains to be clarified. Partly, this is because the OSCE's 56 participating States are exposed to these dangers to varying degrees and have different views on the necessity of collective reaction.

Hence, it is uncertain whether the original motive for co-operation has been or can be replaced by a different but equivalent one.

We can certainly not assume that a sense of being a “community of values” can now effectively replace the collective fear of losing control of the Cold War as the “glue” that holds the Organization together – as was proclaimed in Paris in 1990. The number of participating States has grown by around 20 since the disintegration of the Soviet Union and Yugoslavia. That has brought a massive increase in heterogeneity. The Central Asian participating States do not consider themselves to be European however much value they place on membership of and co-operation with the OSCE. The representatives of Central Asian states have, however, repeatedly argued that politics in the region has to take place under conditions that differ significantly from those in the rest of the OSCE area, and in a very different political and social culture. This is the basis for a rejection of the unreasonable demand for rapid and complete adoption of Western regulatory principles that were declared binding for the entire OSCE area at the end of the Cold War. The patrimonial social structures found in the Caucasus also contribute to the heterogeneity of the OSCE area.

With no “glue” capable of holding together its 56 states, the OSCE will become more of an arena for disputation between states and groups

of states than a fully developed “pluralistic security community”, let alone a “collective actor”.

That applies all the more as the fictitious character of the “indivisibility of security” in the OSCE area, so often and so solemnly proclaimed, becomes evident.

- The pan-European euphoria faded quickly soon after the end of the Cold War in the face of the growing potential for conflict in the OSCE area. At the same time, global instability and danger have also increased.

These are manifested on various levels:

- Military security has returned to a state of precariousness – though a different precariousness to that which held sway during the Cold War.
- Concern with disarmament and arms control has declined; the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), held in New York, was unsuccessful, and the regime is likely to become weaker as a result.<sup>13</sup> The number of states with nuclear weapons has also officially risen while yet more states are increasingly suspected of seeking to acquire them. This is particularly evident among technologically and militarily advanced states.
- A completely different set of problems present themselves in countries where the government is unable or unwilling to assert its monopoly over the use of force to stop power groupings in its area from engaging in activities tending to destabilize or threaten the peace.
- The growth of arms trafficking and smuggling increases the opportunities for non-state actors to destabilize the security situation in various parts of the world, including areas adjacent to the OSCE. The more these activities become transnational in character, the harder it will be for states to meet the challenges they entail.
- What is known as “globalization” results in the intensification of conflicts over economic and social resources.
- At the same time, the importance of ideological and cultural differences and antagonisms is increasing; whether we consider Samuel Huntington’s “clash of civilizations” to be a realistic diagnosis, a self-fulfilling prophecy, or merely a thought-provoking suggestion, the arrangement of political powers and dangers in the OSCE area – but especially in its neighbouring areas – is significantly co-determined by oppositions based on religion and determined by distinctive political world views that are extremely difficult to reconcile.

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13 Cf. Burkard Bischof, Wenn die internationale Schutzhülle löchrig wird [When International Protection Springs a Leak], in: *Die Presse* (Vienna), 1 July 2005, p. 6.

- Following the attacks of 11 September 2001, the OSCE's most powerful participating State considers itself to be engaged in a *bellum iustum*, i.e. a war that may be prosecuted with full legitimacy, and in which one's enemies are not considered to be moral, political, or ethical equals (i.e. "*iusti hostes*" in terms of the modern laws of war); this tends to downplay questions of legitimacy under international law. It also rules out neutrality with regard to the warring parties – indeed, states that profess a devotion to justice should make the just cause their own; mistrust awaits those who refuse co-operation, or preferably coalition; those who are not with us are against us (and against civilization). The whole thing is made even more complicated by the fact that the enemy is not a state, nor even a tangible collective actor, but "international terrorism".
- As far as the USA is concerned, "security and co-operation" have taken on a new meaning, and the tasks of the OSCE appear in a correspondingly different light. From this point of view, it is by no means illogical for the USA to have repeatedly called upon the OSCE to join the "fight against terrorism" in recent years.<sup>14</sup>
- The changing situation within which the OSCE has to find and fulfil its role encompasses not only shifts in the balance of power and the interests of states, and the emergence of new types of non inter-state conflicts; shifts are also taking place at the level of international organizations and groupings: NATO, the Council of Europe, and the European Union have not only expanded their memberships over time, they have also taken on tasks that go far beyond their original functions, and some of these tasks used to be regarded as partly or even primarily the responsibility of the CSCE/OSCE. Following the containment, cessation ("freezing"), or resolution of a conflict in an area like the OSCE region or a narrower subregion, multilateral responsibility for security usually becomes the responsibility of a network of international organizations, of which the UN is, of course, the most important. The OSCE has little chance of selecting the tasks that it would most like to perform; it is more likely to be assigned with certain responsibilities (mostly by an *ad hoc* oligarchy of states that chooses to take the relevant decisions).

The points listed above all serve to show how complicated the situation is in which the OSCE is expected to examine its tasks, scope for effective action, and shortcomings.

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14 Other participating States have also made use of this expression, though they do not necessarily mean the same thing as the USA; Turkey has long seen the persecution of the PKK as a "fight against terrorism", as has Russia the struggle against Chechen separatists.

It is more complicated than the most visible and frequently discussed demands for reform would suggest.

*The Reform Proposals of the “Panel of Eminent Persons”*

The writers of “Common Purpose” consider several discussions to be symptoms of the OSCE’s damaging lack of unity, including:

- whether new dividing lines are being drawn in Europe,
- whether double standards are applied (e.g. for Eastern and Western countries),
- whether the OSCE is in danger of losing its relevance, and
- whether the participating States possess the political will to make full use of the Organization.

Indications of inadequacy include the existence of long-running unresolved conflicts in the OSCE area (Nagorno-Karabakh, Georgia’s problems with South Ossetia and Abkhazia, and the Transdniestria problem in Moldova).

Considering all of these to be symptoms of a crisis, the eminent persons make a succinct plea for the OSCE to adapt to a new “security paradigm”. While they note that new types of conflict and new instabilities exist, they do not give specific details. It appears that they assume that the degree to which the situation has changed is already well enough known. One may also presume that the Panel of Eminent Persons remembered the years of laborious discussions of new threats and challenges and did not want to cover the same ground again or give cause for others to do so.

Instead, they propose that the Organization adopt a number of reforms. The list they produced contained a wide variety of suggestions.

- The list begins by detailing long-running OSCE core tasks and activities, such as:
  - political dialogue, which should be enhanced,
  - human dimension activities, together with the promotion of democracy and the rule of law (encouraging tolerance and non-discrimination, respect for the rights of persons belonging to national minorities, election observation, etc.
- Second, it recalls the OSCE’s established tasks. Its description of this contains several notable modifications, however, such as the following two examples:
  - “Common Purpose” addresses the conflict management cycle, which has so often been mentioned in passing over the years – from early warning to post-conflict rehabilitation, including restorative justice and the reconciliation of former enemies. It makes

- no mention, however, of crisis management and peace-making – critical tasks at the heart of the conflict cycle whose performance may require the application of force. Apparently, the authors see these tasks as the responsibility of other actors.<sup>15</sup>
- Arms control and confidence and security building measures (CSBMs) are also identified as priority areas. That is notable because, while the CSCE/OSCE has been very active in the area of CSBMs,<sup>16</sup> activities relating to arms control in the narrow sense were, at most, carried out a way that was only indirectly connected to the CSCE, as in the case of the negotiations and the Treaty on Conventional Armed Forces in Europe.
  - Advising the OSCE to prioritize arms control and CSBMs may sound sensible, but it is severely lacking in substance. “Common Purpose” says nothing more than that the OSCE should consider new initiatives in the politico-military dimension, such as reviewing and, if necessary, amending certain elements of the Helsinki Decisions of 1992 and the most recent version of the Vienna Document (1999). It has indeed long been clear that these documents are also based on an outdated model of the security environment, and the “new security paradigm” would suggest the need for a fundamental review. However, such a course of action would require all participating States to agree on a new mandate for negotiations that could lead to a more modern system of security-building measures. There is, however, little prospect of such a mandate being agreed. On this question, the Eminent Persons remain singularly vague.
  - Third, “Common Purpose” lists tasks that have been added to the OSCE agenda in recent years, such as promoting police training, border management, democratic control of the armed forces, and combating terrorism, extremism, organized crime, and trafficking in human beings, drugs, and weapons.

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15 It is important to recall at this point the long history of discussions of CSCE/OSCE peacekeeping operations; these were included in the OSCE’s list of tasks as early as 1992; however, no OSCE peacekeeping mission has ever been sent. In recent years, a number of countries, including Russia, have argued that the OSCE should consider running its own peacekeeping operations. The USA and other Western states have always rejected such proposals, apparently in the view that organizations such as NATO (where possible with the approval of the UN) are better suited to carry out such tasks. The Panel’s report therefore approximates to the Western point of view in this respect. Before one sees this as a matter of abandoning claims that the Organization had itself staked in 1992, one should bear in mind that the nature of peacekeeping operations has changed: The original thought of classical UN “blue helmet” operations, undertaken with the agreement of all the parties involved, and implemented ideally without the use of force, has increasingly given way to “robust” deployments, occasionally occurring in a grey area between peacekeeping and peace enforcement.

16 One might recall the Stockholm Conference on Confidence and Security-Building Measures and Disarmament in Europe (CDE) of 1984-1986 and the frequently updated Vienna Document on CSBMs.

The authors make several further suggestions for reform:

- Some relate to the Organization's general approach towards performing its tasks. For instance, they mention the need for a "cross-dimensional perspective" linking the OSCE's various areas of activity – human, political, and military – at both planning and operational levels.

They also call for the Organization's activities to be based on long-term strategic thinking.

- A more concrete proposal is to consolidate the OSCE's status by providing it with legal personality; this requires a legally binding basis – in the form of a statute or convention – which would define the Organization's goals, principles, and "commitments", as well as the structure of its main decision-making bodies. "Common Purpose" calls upon the participating States to agree on a treaty to this end, though the substantive agreements made on this basis should remain merely politically binding.<sup>17</sup>

For a long time, Russia and several like-minded states had pleaded that the CSCE/OSCE should be transformed into a fully fledged international organization, a kind of regional UN. When this proved unrealistic, it could be said that the desire to give the Organization a legal foundation remained. On the other hand, representatives of the West and others have repeatedly stressed the advantages of the existing structure, which allows the Organization to adapt rapidly and flexibly to changing circumstances and prevent the proliferation of red tape. The proposal made by the Panel of Eminent Persons – a combination of a legally binding foundation and politically binding concrete decisions and projects – appears to be a compromise aimed at breaking the stalemate between the two positions.

- The document makes equally concrete and detailed proposals on the modification of the OSCE's institutions and decision-making system:
  - The Permanent Council should retain the paramount role in deciding on priorities and activities, while three new committees corresponding to the OSCE's main dimensions should be established under its authority:
    - a) a Security Committee (although the Panel was divided on whether this would assume responsibility for the current functions of the Forum for Security Co-operation or whether

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<sup>17</sup> In fact, the OSCE's current status is almost paradoxical. The UN considers the OSCE to be a regional arrangement under Chapter VIII of its Charter, in line with the claim first made by the OSCE itself. In fact, the OSCE should not exist as far as the UN is concerned; according to Article 102 of the UN Charter, all members are required to register all relevant contracts and agreements with the UN Secretariat in order to appeal to the relevant arrangements. The CSCE/OSCE has no founding treaty that could have been registered in New York.

it would only deal with non-military aspects of the politico-military dimension);

- b) a committee for the human dimension; and
  - c) a committee for the economic and environmental dimension.
- The aim of this “*itio in partes*” is clearly not only to relieve the Permanent Council from responsibility for matters of detail, which also concurs with the proposal that the Permanent Council assume responsibility for matters that have been decided by the Ministerial Council in recent years.

The establishment of the three committees would also stress the equality of the OSCE’s three main dimensions (as Moscow desires).

- The requirement for consensus should remain. However, states that block consensus should be openly identified.
- The tasks of the Chairman-in-Office and the Secretary General should be redefined.

The Chairman-in-Office should assume a political leadership role; his tasks should include the development of new initiatives, proposals, and templates on existing topics for the Permanent Council, presiding over the Permanent Council, and the preparation of Ministerial Council meetings.

The Secretary General should be granted a greater operational role, and the position of Deputy Secretary General should be created. Because his term is longer, he should be the public face of the OSCE.

His tasks should include, on the one hand, long-term planning (including budgetary planning), and, on the other, identifying threats to security and bringing them to the attention of the participating States, operational leadership in crisis situations, and co-ordination of the OSCE’S activities as a whole. He should also be the central contact person for all operational matters in which more than one institution is involved.

Realizing these plans would have serious consequences. The proposed strengthening of the role of the Secretary General, including his role as the public face of the Organization, would create a position similar to that of the UN Secretary-General. Given this, one may ask what it means to stress the leadership role of the Chairman-in-Office (whether, for instance, the intention is merely to maintain the attractiveness of the position). Several of the Chairman’s tasks overlap with those of the Secretary General or assume that preliminary work will have been performed by the latter. If the Secretary General is to perform effective long-term planning, it will also have to be binding on the Chairman-in-Office, limiting his sphere of responsibility. This would be reduced yet

further by the proposal that the Secretary General be responsible in the first instance for bringing acute challenges to the attention of the participating States.<sup>18</sup>

- In general, the proliferation of structures should be avoided.

All in all, the proposals contained in “Common Purpose” are worthy of consideration. Whether they are an appropriate response to the paradigm shift postulated by the authors, however, seems questionable. Perhaps it is not too absurd to imagine that the members of the Panel, as “eminent persons with knowledge of the OSCE”, were as aware of that fact as they were aware of how difficult it would be to implement a reform programme capable of significantly raising the Organization’s effectiveness. In fact, they were most likely even aware that it would simply be impossible to cobble-together a reform programme that was at the same time effective, capable of effecting a long-term solution to the crisis, and of being accepted by all the participating States. Perhaps it was difficult for them to turn down their invitation to join the Panel; and, once they had accepted their invitation, they had to present the results. Whether they succeeded in making a virtue out of necessity is open to question.

#### *Reform Proposals Contained in the Document “The Future of the OSCE”*

The report on the colloquium held in Washington heavily stresses the fact that merely structural reform of the OSCE is not enough as long as the governments of the participating States lack the will to take the Organization seriously, appreciate its value, and use it as best they can. It is therefore necessary that the governments of all 56 participating States reaffirm their support for the Organization and that they are bound by all – existing or future – decisions.

The report’s authors do not attempt to answer the question of why the political will has declined in power and the ability to create a consensus, although it is simple to surmise that unless the factors and circumstances responsible for this state of affairs are removed, further solemn assurances will do little to change matters.

The report, however, also leaves the impression that the colloquium participants agreed that the prospects of reform depend upon the extent to which the resolutions proposed coincide with the interests and expectations of specific participating States.

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18 The Eminent Persons’ report calls for the appointment of envoys of the Chairman-in-Office (Personal Representatives, etc.) to be limited temporally and in terms of their scope of action and proposes that they should have no dedicated staff or structures, none of which is easy to reconcile with talk of strengthening the role of the Chairman-in-Office.

The following section discusses a number of the report's considerations and recommendations:

- The "Future Colloquium" document also considers the balance between various dimensions of OSCE policy; it proposes strengthening both the human dimension and the security dimension (conceived of primarily in military terms), although it does not state whether the current balance should be retained at a higher level of effectiveness or if the relative weighting of these two dimensions should be modified in favour of one or the other. Apparently, the Washington Colloquium did not consider the economic and environmental dimension to be the equal of the others.

The report picks out election monitoring as one of the OSCE's particularly significant tasks. It argues that the independence of the election monitoring missions, which has recently been called into question, should be defended and standards for fair democratic elections improved. Co-operation between ODIHR and the OSCE PA should be improved to facilitate this.<sup>19</sup> More election monitoring should also be carried out in Western democracies.

The report's authors thus assume that there is a qualitative imbalance in OSCE policy; they do not consider Russian accusations in this regard to be wholly unfounded,<sup>20</sup> and the report is clearly willing to take some Russian complaints seriously.

- The Chairman-in-Office receives little attention in the Washington document. While he should be entitled to deliver statements in the name of the OSCE, so should the Secretary General – with or without consulting the Chairman-in-Office.

The Washington Colloquium was also clearly in favour of strengthening the role of the Secretary General in the spheres of policy, administration, and finance.<sup>21</sup> A notable proposal is that the Secretary General be empowered not only to make policy statements but also to formally rebuke participating States that are lax in implementing their OSCE commitments. That is incompatible with the calls from states such as Russia that all official statements should be made with the consensus of all participating States.

- A weakening of the consensus principle is also found in the proposal to consider the consensus rule as no longer sacrosanct with regard to personnel, budgetary, and administrative decisions. In this respect, the

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19 The Report does not explain why and how existing shortcomings could be remedied by means of closer co-operation between ODIHR and the Parliamentary Assembly.

20 That is particularly remarkable given that the former Director of the OSCE institution responsible for election monitoring, ODIHR, is one of the report's authors.

21 Although the "Future Colloquium" report was published a few weeks before "Common Purpose", it should not be assumed that the Eminent Persons copied the ideas expressed at the Washington Colloquium; the former had begun their work considerably earlier than the latter. Whether any of their thoughts found their way to Washington is an open question.

document goes considerably further than that of the Eminent Persons. When individual participating States block highly political decisions that have the support of the vast majority, they should be required to publicly explain their position.

- Several elements of the text indicate the clear influence of the type of thinking typical of parliamentarians, such as a favourable attitude towards publicity (including the holding of controversial debates in public), in contrast to the confidentiality and consensus-orientation of diplomatic negotiations and intergovernmental bodies.

This is also reflected in the recommendation that controversial topics not be excluded from discussions (arguably referring above all to those of the Permanent Council). This is in all likelihood driven by the sense of frustration experienced by delegations whose proposals were rejected out of hand on the grounds that there was no prospect of achieving a consensus.<sup>22</sup>

Clearly, the active participation of OSCE PA representatives also played a role at the Washington Colloquium.

- It is therefore hardly surprising that the report advocates enhancing the role of the PA within the OSCE's institutional and procedural system.

The Assembly would like to be considered an integral part of the OSCE's institutional system.<sup>23</sup>

The "Future Colloquium" report argues not only that the Parliamentary Assembly should become more involved in conflict prevention and crisis management activities, but also that it should have a right to approve the OSCE's annual budget and to confirm the nomination of the Secretary General. This would strengthen the position of the Secretary General, which has so far been filled by agreement between representatives of the participating States (at ministerial level).

Considered in terms of the status quo, these reform proposals are quite radical. They are also clearly in the PA's own interest. Whether

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22 In the Permanent Council and the Forum for Security Co-operation, it was common for those arguing in favour of positions that were only backed by a minority to be asked to refrain from seeking support. Their opponents justified this by arguing that, in order to make the most of the time available, it was advisable to concentrate on standpoints and proposals that had a good chance of being accepted. Nevertheless, ideas that were only accepted by a minority at the start have in the past often come to garner more support over time and even to achieve general acceptance (albeit sometimes in a watered-down form).

23 The Parliamentary Assembly was not originally created as a CSCE/OSCE institution in the strict sense. It cannot be compared with the Parliamentary Assembly (originally the Consultative Assembly) of the Council of Europe, but is rather closer in character to NATO's Parliamentary Assembly (formerly the North Atlantic Assembly). The benefits sometimes ascribed to the OSCE PA include the fact that its larger events provide the OSCE itself with additional media attention, and that PA meetings mean that parliamentarians of the participating States are more closely involved with the OSCE, which it is hoped will lead to more "good will" for the Organization in general in the participating States, creating, for instance, a positive effect on the willingness to be generous when apportioning funds for the OSCE in national budgets.

they would provide an effective way out of the OSCE's crisis is quite a different question.

- The "Future Colloquium" report contained several additional reform proposals, such as:
  - The creation of an analysis and prospective unit in the Secretariat,<sup>24</sup>
  - The establishment of a best practices unit;<sup>25</sup>
  - The development of a civilian rapid reaction capability to enable timely intervention in crisis situations;<sup>26</sup>
  - Measures to raise the "professionalism" of the OSCE; and
  - The creation of OSCE liaison offices in Brussels and New York.

Ideas like that of weakening the consensus principle or strengthening the role of the PA (including the proposal to grant it considerable powers of co-decision-making) nonetheless reveal a bias that did not really boost the chances of the report being taken into consideration in the reform consultations.

In comparison to "Common Purpose", the text significantly lacked both substance and political weight.

#### *Demands for Reform Made by Russian Deputy Foreign Minister Chizhov*

This text is not the result of an attempt by experts to mediate between opposing positions held by several participating States, but rather one that sets forth the current position of an especially prominent participating State, one that has – as already mentioned – expressed dissatisfaction at the way the OSCE has developed and the nature of its policies for some time.

Russia has had to make several humiliating climbdowns in recent years. Which is precisely why Moscow could not be expected to dispense with the opportunity presented by the OSCE reform debate to assert its position and make its demands known. It is important to consider this expression of Russia's position in the context of this analysis, as it allows us to draw conclusions when evaluating the other documents under consideration and considering their chances of realization.

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24 With regard to the tendency for discussion in the Permanent Council and the Forum for Security Co-operation to be drawn out and complex, the text does not make clear whether the creation of this unit is intended merely to support these bodies, in which all participating States are represented, or is to result in a narrowing of these organs' activities.

25 The role of this proposed unit would evidently be to evaluate the OSCE's practical experience in various operational fields. The text leaves an impression that the criteria used to identify best practices are always self-evident. However, that is only true where the assessment is not governed by political partiality. This proposal is thus either naïve or made in full knowledge of the fact that the issue of staffing the proposed unit would be an extremely politically sensitive matter.

26 The inclusion of this proposal suggests that the already adopted REACT initiative, which had been designed to meet this need, was seen as inadequate.

That the ideas presented by Russia are, for the most part, nothing new, but rather recapitulate positions that have repeatedly been presented by Russia in recent years can be concluded on the basis of evidence presented above.<sup>27</sup>

The following remarks and demands deserve particular attention:

- This document once again claims to draw attention to a blatant imbalance in the OSCE's political profile – both in terms of function (over-stressing the issues of human rights and democracy), and in geographical terms (the Eastern participating States are repeatedly subject to criticism, the NATO and EU states rarely).<sup>28</sup> To counter this, Russia calls for the OSCE to “go back to [the] sources”. A further complaint is that transforming the OSCE into a fully fledged organization has stalled.<sup>29</sup>

While the Russian document calls for the OSCE to be remodelled as a genuine regional organization in the sense of Chapter VIII of the UN Charter, it also calls for greater emphasis on the purely interstate character (intergovernmental and based on conference diplomacy) of the OSCE.<sup>30</sup>

- The opportunities for making statements on behalf of the Organization and autonomous action on the part of individual officials and institutions should be curtailed.

There should be a ban on official statements that do not reflect a consensus among the participating States. In particular, the Secretary General should be bound by directives of the Ministerial Council and the Permanent Council.

Individual institutions and office holders, such as ODIHR, the High Commissioner on National Minorities, and the Representative on Freedom of the Media should be integrated into the Secretariat, so that

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27 Cf. section two above; see also Note 8 and the references provided in Note 9.

28 Given that it is a political declaration made by a Deputy Minister, the text understandably does not touch upon the question of how these developments came about. Given that all OSCE policy decisions require the consensus of all participating States, this question nonetheless needs to be asked.

29 With regard to this criticism, one may ask whether the participating States did in fact at any time in the history of the CSCE/OSCE agree on a transformation of this kind, preferably with reference to a specific intended end-result that had received consensual approval. This was never the case. Nonetheless, several Western states made advances to the Russian (and formerly the Soviet) leadership to the effect that they were prepared to support the Russian position on this question; the Federal Republic of Germany did so, for instance, when it was seeking Moscow's approval of German reunification and membership of NATO.

30 The juxtaposition of these two demands is remarkable: The earlier Russian conception of structurally expanding the CSCE into something worthy of the name “Organization” called for both an increase in the OSCE's own competencies and the creation of a competent executive organ in which not all participating States would have a right to participate or to vote (a consequence of the proposal to create permanent and non-permanent members). Moscow's view appears to have been that if its original model of reform had been revealed as unacceptable to the majority of participating States, it was better to reduce the autonomy of individual office bearers as far as possible.

- their activities can be more strictly controlled by the Secretary General, who is himself to be effectively controlled by the Permanent Council.
- Changes are also demanded of the OSCE's field missions. Their terms should be shorter; they should be more evenly distributed throughout the OSCE area; as a rule, they should only be established on the request of the affected participating State and, when deciding on their tasks, the entire spectrum of OSCE activities should be taken into consideration (i.e. not just the politico-military dimension, human rights, and democratization issues). The assumption is that, in the past, missions have frequently been established because some participating States have been concerned at developments in another (generally Eastern) State and have sought to ensure its compliance by means of more or less gentle pressure.
  - Reforms are also demanded in the OSCE's election monitoring regime: Election observation missions should only be established and implemented on the basis of a uniform, collectively agreed catalogue of criteria; Heads of Missions should be appointed unanimously by the Permanent Council; and the make-up of the monitoring teams must be balanced. Evaluations of preparations for elections, campaigning, and voting should draw on a range of sources; they should be submitted to the Permanent Council for consultation before publication.
  - Finally, there is a call for the system of financing the OSCE to be reformed in a way that reflects the actual ability to pay of the participating States.

Considering all of this together, Russia does not appear to be pressing very forcefully for the strengthening of the OSCE and its ability to act. Rather, one receives the impression it should be turned into a fleet without an admiral, whose course must be continually agreed by all its captains, and whose speed is determined by that of its slowest member (or least willing commander). While the idea of a collective oligarchic leadership developed in Moscow in the years following the collapse of Communism, this is now no longer even being considered, let alone demanded. Since it became clear that Russia has virtually no chance of shaping OSCE policy in accordance with its vision and interests, it has lost virtually all interest in the effectiveness of this policy. Now it merely aims to oppose the political position most capable of summoning majority support given the current balance of power, and to reduce prospects of effective implementation.<sup>31</sup>

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31 Arguably, this is also a consequence of the fact that Russia has, *noles-volens*, generally (not only within the OSCE) come to terms with the USA's unlimited geopolitical leadership role. A German expert on Russia spoke of a "new realism" under Vladimir Putin, referring to the fact that, in this context, Moscow "made relatively little fuss about abandoning co-operation in the OSCE, which had previously been the privileged vehicle for Russian initiatives in European security policy, when the Organization's insistence on a new mandate regarding developments in Chechnya became too troublesome". Heinrich Vogel, *Russland auf der Suche nach einem Standort* [Russia's Search for a New Position], in:

Despite all the constructive-sounding rhetoric, Russia does not want to “expand” the OSCE; but rather to “disarm” it.

*Analysis and Proposals in the Document “Managing Change in Europe”*

The authors of the Hamburg study – which was presented to the participating States shortly before the start of the 2005 summer recess – are leading experts from reputable research institutes in Germany, Russia, Sweden, Switzerland, and the USA. They tend to spurn convoluted diplomatic formulations in favour of informative analysis of matters such as the interests of Russia, the USA, and the European Union.

They are quite unambiguous in their diagnosis of a stalemate detrimental to OSCE policy; overcoming it should be the first priority in attempting to solve the Organization’s crisis. In order to achieve this, the participating States must accept that this – i.e. agreeing on a reform agenda – is a strategic task they must perform together and not a tactical contest in which they are vying for position. When this can be achieved, the OSCE can be given substantive new tasks to perform: firstly, to address transnational threats and risks, especially the roots of terrorism and the factors that make terrorism possible, and, secondly, to pursue new initiatives to resolve frozen conflicts (Moldova/Transdnistria, Nagorno-Karabakh, Georgia/South Ossetia) and to prevent new ones (with a particular focus on Macedonia, the South Caucasus, and Central Asia).

Only after agreement has been reached on the OSCE’s priorities should the matter of structural reforms necessary for the fulfilment of the new tasks be addressed.

In pursuing this course, the Chairman-in-Office should concentrate on political consultations and on preparing the decisions to be taken by the OSCE’s key institutions (here an effort should be made to include as many participating States as possible; up to now, such activities have tended to be performed by an oligarchy consisting of the country holding the Chairmanship, the USA, the EU, and Russia, and the countries immediately affected).

The Secretary General should be vested with overall responsibility for the implementation of decisions, including the co-ordination of the OSCE’s various institutions and operational leadership of field missions.

In view of the inadequate provision of capacities for analysing the results of activities and planning future activities, a “political unit” (for political planning) and an “analytical unit” (to act as a pool of available expertise and to record and evaluate experiences gathered in the course of the Organization’s activities) should be established within the Secretariat. Additional

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Wolfgang Wagner et al. (eds), *Jahrbuch Internationale Politik 2001-2002* [International Politics Yearbook], Munich 2004, pp. 229-238, here: p. 235 (author’s translation).

structural changes are also recommended, such as the regrouping of departments and the creation of “competence teams”.

With regard to field operations, “Managing Change” calls for the Secretary General to be granted a leadership role, but also for improved co-operation between the missions and their host countries.

The paper calls for the establishment of “thematic missions” to tackle specific problem areas (e.g. trafficking in human beings), pursuing their objectives in several participating States. These missions should also work closely with NGOs and other transnational actors.

Finally, “Managing Change” recommends enhancing the OSCE’s co-operation with its partner states (in the Mediterranean and Asia) as well as with other international and non-governmental organizations.

If the OSCE reforms are a success, argue the authors, the Organization will have a future – but even this will not be enough to give it a dominant role in the interlocking meshwork of international organizations; the OSCE’s role would continue to be to carry out tasks assigned to it by the key actors in the multi-organizational environment.<sup>32</sup>

### *The Deadlock of Vienna and Ljubljana*

Given all the problems mentioned above, it was always unlikely that the High-Level Consultations would lead to a breakthrough. They were thus characterized by good intentions and strained discussions. The Slovenian Chairmanship had submitted a detailed list of relevant topics in a food-for-thought paper in preparation for the Consultations. The variety of individual proposals for improving the working methods of the OSCE’s various institutions and agencies demonstrated the interest of the participants in improving the efficiency and effectiveness of the Organization’s work, although a wide range of criticisms were also voiced (some concerning deficiencies that had little to do with political differences of opinion). The various proposals contained in the documents that the meeting was supposed to discuss (especially the report of the Panel of Eminent Persons) were twisted this way and that, but a coherent guiding vision of how reform should take place that all could agree on did not emerge. Neither long-running nor newly emerging differences were bridged over; to give just one example: the controversy over whether to maintain (or even strengthen) or to reduce the independence of institutions such as the High Commissioner on National Minorities, the Office for Democratic Institutions and Human Rights, and the Representative on Freedom of the Media.

Thus, presented with the results of the Consultations (and the subsequent follow-up in the Permanent Council), the Ljubljana Ministerial Council failed

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32 The report uses the expression “a more limited and specialized actor”.

to take the “great leap forward” that would have lifted the OSCE out of its crisis.

That no success would be achieved in this grand undertaking could be deduced from the fact alone that, once more, no agreement could be reached on the text of a final declaration, which was again replaced by a mere Statement by the Chairman-in-Office.<sup>33</sup>

The end result of all these efforts as formally approved by the Ministerial Council was limited to the following points:

First, the Permanent Council should continue its efforts in the area of OSCE reform and should report to the next Ministerial Council (at the end of 2006).

The following matters, in particular, should be dealt with:

- Rules of procedure (including options for minor modifications to the consensus principle);
- The institutional structure (e.g. with regard to the establishment of Permanent Council sub-committees);
- Enhancing the role of the Secretary General and modernizing the Secretariat;
- Strengthening the efficiency, effectiveness, and transparency of OSCE activities, institutions, and field operations;
- Examining ways of potentially improving the professionalism of OSCE personnel;
- Options for further improving programme planning.

Second, a report should be presented by the end of 2006 by ODIHR itself detailing possible innovations in the work of ODIHR; this should take into account the positions of the participating States.<sup>34</sup>

All in all, that is a fairly meagre result.

The issues mentioned are but some of the problems that need to be addressed if the crisis of the OSCE is to be truly overcome.

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33 In this case, the Slovenian Foreign Minister, Dr Dimitrij Rupel, in: OSCE, *Thirteenth Meeting of the Ministerial Council, 5 and 6 December 2005*, Ljubljana 2005, 6 December 2005, MC13EW66, pp. 66-69. His “Statement by the Chairman-in-Office” contains both statements attributed to “the ministers” (i.e. the foreign ministers of the participating States), and sections that begin with the phrase “most ministers”. It was not possible to release an official final statement containing a summary of the points that had been agreed unanimously as some participating States would not have agreed to the omission of certain statements. Nonetheless, a number of declarations and decisions on specific topics were adopted in the course of the Ministerial Council Meeting.

34 In contrast to the usual procedure, the task of drawing up a report on options and recommendations for the reform of ODIHR was not assigned to the Permanent Council but to ODIHR itself. This is, despite the requirement to consult the participating States, a vote of confidence in ODIHR’s autonomy. It will be interesting to see whether the proposals that are presented in December 2006 for ODIHR’s reform are further-reaching and more tangible than those with respect to other, comparable, institutions, and whether this has an effect on their ability to achieve consensus.

In no case is even a hint given as to what sort of innovations the Ministers would consider acceptable.

Nowhere is it stated that the report, which must be presented by the end of 2006, is intended to offer a workable, comprehensive package of reforms.

As a result, the Ministerial Council Decision appears rather to reflect the fear of acknowledging the failure of the reform exercise.

The meagreness of an entire year's reform efforts must be a cause for concern, above all because there has never been a time when so many leading experts from various participating States have so unambiguously declared that the OSCE would inevitably lose its significance without rapid and thoroughgoing efforts to relieve the crisis.

There is still hope for the OSCE. It has repeatedly succeeded in adapting its work to new circumstances. It will remain capable of making useful contributions to stabilizing security and promoting co-operation in the space between Vancouver and Vladivostok. Its dissolution is not likely to come up for discussion even in the foreseeable future.

But if new initiatives aimed at overcoming the current deadlock and adapting the OSCE to the new security environment do not soon bring about a revitalization and a new sense of mission, the Organisation's future may turn out to be short.



The OSCE States:  
Their Interests and Commitment –  
Focus on the Black Sea Region



## Bulgaria and the OSCE

Bulgaria's contribution to the OSCE in 2006 grew out of the active role it played during the preceding three years when Bulgaria was a member of the OSCE Troika, and particularly in 2004, when Bulgaria held the OSCE Chairmanship. Thus, Bulgaria's current position should be seen first and foremost as a manifestation of the decisions, conclusions, and statements of the three OSCE Ministerial Councils held in the period from 2003 to 2005 in Maastricht, Sofia, and Ljubljana, respectively.

Bulgaria's involvement in the leadership of the OSCE during that three-year period coincided with momentous developments in its rapidly maturing (post-Communist) attitude towards European and international security and stability. In December 2002, Bulgaria joined the North Atlantic Treaty Organisation, and, in April 2005, Sofia signed the Treaty of Accession to the European Union, which provided the legal basis for formal accession in 2007. These two acts of the Bulgarian state went a considerable way towards institutionalizing its foreign policy re-orientation in a direction that broadly focused on upholding and contributing to the shared democratic values and common strategic pursuits of the Euro-Atlantic community. Bulgaria's new identity and role has, in turn, allowed it to make a more responsible and concerted contribution to the common goals, principles, and commitments undertaken by the OSCE participating States. Bulgarian diplomacy at the OSCE also encouraged a more structured dialogue and interaction with other international organizations and institutions, including the UN, the EU, NATO, and the Council of Europe. Bulgarian Deputy Prime Minister and Minister of Foreign Affairs Ivaylo Kalfin emphasized this point in his statement at the Ljubljana Ministerial Council.<sup>1</sup>

In view of the important systemic developments in Bulgarian foreign policy and the higher level of international trust it had begun to enjoy (exemplified by the positive Porto Ministerial decision on Bulgaria's OSCE Chairmanship in 2004), Sofia felt it was essential to concentrate on fundamentals. It had an early opportunity with the elaboration of the OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century. It contributed to this text for two basic reasons. First, the OSCE Strategy relates to and largely coincides with principles and goals of the foreign and security policy of Bulgaria and its partners, in particular the European Security Strategy adopted by the European Council in December 2003. Second, much of the work of the OSCE policy-making bodies in Vienna and a great many OSCE field activities are linked to "unfinished business" in the Balkans. In

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<sup>1</sup> Cf. Statement by H.E. Mr Ivaylo Kalfin at the 13th Meeting of the OSCE Ministerial Council, 6 December 2005.

this respect, another major contribution of Bulgaria in its new capacity as a member of the OSCE Troika involved helping with the draft of the Statement on South-Eastern Europe as a Region of Co-operation, adopted by the OSCE Ministerial Council at the end of 2003. With that statement the then 55 OSCE participating States “recognize[d] the importance of the European Union’s (EU) Stabilization and Association Process and the declared intention of the countries of the region to integrate into Euro-Atlantic structures”.<sup>2</sup>

This consensual position is a source of inspiration for Bulgaria’s own regional policy. Together with the whole body of decisions taken by the European Council on the European prospects of the Western Balkans, it forms the cornerstone of the Bulgarian approach to this aspect of regional security and stability.

#### *Bulgaria Acquires New Experience in the EU Partnership Co-ordination Process*

One of the intriguing new foreign policy experiences Bulgaria has undergone since signing the EU accession treaty on 25 April 2005 has been its participation, together with Romania, in the consultation and policy-making process carried out by the 25 EU partners at all major international forums, including the OSCE. At this initial stage, this is an endeavour for the two acceding countries that combines elements of learning, information sharing, and occasional substantive contributions to common positions and policies. The latter follow the EU Common Foreign and Security Policy (CFSP) and the European Security and Defence Policy (ESDP), but are carefully tailored to serve the principles and goals of the broader OSCE agenda.

The process of formal and informal consultations among the 27 States and the delegation of the European Commission strengthens their political partnership and institutional relationships and lays the groundwork for further perfection of the consultative mechanism. This work of co-ordination is a unique feature of European integration: Its one minor weakness is its inevitably time-consuming nature, while its advantages are manifold, key among them being its inherently multilateral approach and the strong tendency of the positions taken towards balance and moderation. These qualities are distinctly useful to the OSCE as “the primary instrument for early warning, conflict prevention, crisis management and post-conflict rehabilitation in its region”.<sup>3</sup>

The elaboration of EU responses to major developments in the OSCE area, e.g. the 2006 presidential and parliamentary elections in Belarus and

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2 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, *Statement on South-Eastern Europe as a Region of Co-operation*, pp. 29-30, here: p. 29.

3 *OSCE Handbook*, Vienna 2000, p. 3, at: [http://www.osce.org/publications/osce/2005/04/13858\\_222\\_en.pdf](http://www.osce.org/publications/osce/2005/04/13858_222_en.pdf).

Ukraine, respectively, or the continuing impasse in the “frozen conflicts” in Moldova and Georgia, has provided Bulgaria with additional valuable experience in the complex process of EU co-ordination. In particular, it has gained insight into the interrelationship between common and national foreign policies (in the case of Belarus), and the interplay between EU involvement in OSCE missions and the Union’s own field missions in the same OSCE countries.

Against this backdrop, Bulgaria made its *debut* in EU co-ordination as *chef de file* for Albania.<sup>4</sup>

In this capacity, Bulgaria has led the way in formulating EU positions on developments in Albania and on anything to do with the OSCE mission in that country. After carrying out consultations, Bulgaria provided a draft for the EU response to the Head of the OSCE Presence in Albania, Ambassador Pavel Vacek, at a meeting of the OSCE Permanent Council. This year’s EU response reflects the spirit of the Salzburg EU Ministerial on the Western Balkans, which placed greater demands on the countries involved in the Stabilization and Association Process. Thus, while the EU stated that “it is pleased to note that encouraging developments have taken place in Albania”, it nevertheless expressed certain concerns and urged the government and all political parties to vigorously pursue reforms. Further efforts on the part of the government to complete the legal and administrative framework for the protection of the rights of persons belonging to national minorities would be welcome.<sup>5</sup>

The above, and particularly the reference to inadequate attention to the rights of persons belonging to national minorities, was disputed by the head of the Albanian delegation to the OSCE, Ambassador Zef Mazi. He also expressed his view that the EU showed insufficient recognition of the measures undertaken by the Albanian government to tackle organized crime and corruption.

Again, these verbal exchanges have to be understood in the light of the exceptional responsibility incorporated in the EU policies towards the countries of the Western Balkans. In terms of both its extent and its depth, the support provided by the EU in the political, economic, and social aspects of Albania’s transition to the rule of law and a market economy far exceeds the efforts and contributions by any other state or state group within the OSCE. This fundamental fact turns the EU-Albania relationship into a truly strategic partnership in which the value placed by both sides on ever closer integration means that the classical language of diplomacy is replaced by open and frank discussion. Consequently, the Bulgarian delegation at the OSCE has regarded the invitation to act as *chef de file* on Albania in the EU context not only as a

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4 In the Bulgarian delegation, this task was given to Ms Daniela Boudinova, Counsellor, who is also in charge of EU matters.

5 Austrian Presidency of the Council of the European Union, Permanent Council No. 611, 25 May 2006. EU response to the Head of the OSCE Presence in Albania.

professional challenge but as a test of its analytical capabilities and sense of objectivity and balance. With time, this function provided by Bulgaria on behalf of the EU could become the basis for a much deeper partnership with Albania, one that would help the country realize its European potential in full and within a timeframe commensurate with the aspirations of the Albanian people.

*Bulgaria Is a Source of Security and Stability in South Eastern Europe*

In its foreign policy work, Bulgaria proceeds from the underlying principle that regional co-operation in South-eastern Europe is not an alternative to European integration but one of its inseparable parts. Hence, Bulgaria is striving to assert its leading role in the process of integrating the region into European and Euro-Atlantic structures. It believes in the gradual overall integration of the region into the EU and NATO and has taken a leading proactive stance in this respect. In the meantime, it is encouraging the application of European standards by all regional states in their intergovernmental relations concerning the region, and the realization of fundamental infrastructure projects with regional implications.

The above is particularly true of Bulgaria's approach to its neighbours in the Western Balkans. Based on its experience as an EU candidate and accession country, Bulgaria has pledged its readiness to provide assistance in its neighbours' quest for European integration and has signed memoranda for co-operation with all of them. Bulgaria's policy of good neighbourly relations and co-operation extends to countries in the Black Sea region as well.

The OSCE attaches great importance to a positive outcome of the process to determine Kosovo's future status. As a neighbouring country and one that will be directly affected by the viability of that outcome, Bulgaria supports the EU's policy on this matter. The Bulgarian government's approach to Kosovo is based on continuous and close observation of developments there and a deep knowledge and understanding of the underlying factors that determine the dynamics of the situation and its implications for regional security and stability.

In its capacity as Chairman-in-Office, Bulgaria had the unenviable task of co-ordinating the OSCE response to the outbreak of violence in Kosovo in March 2004.<sup>6</sup>

Two years later, direct talks on the final status of Kosovo were already in progress.

Bulgaria appreciates the EU approach, which considers the concerns of both Pristina and Belgrade and has focused on the efforts of the UN Secretary-General's Special Envoy for the Future Status Process for Kosovo,

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6 Cf. Statement by Dr Solomon Passy, Minister of Foreign Affairs of Bulgaria and Chairman-in-Office of the OSCE, 7 December 2004.

Martti Ahtisaari, who works on the basis of the Contact Group's Guiding Principles and the Contact Group Ministerial Statement of 31 January 2006.

In line with its proactive stance, Bulgaria invited Special Envoy Ahtisaari to Sofia for consultations. On the eve of this visit, Bulgaria made it clear that it is guided by the EU Council Conclusions, which reaffirmed, among other things, that Kosovo's future status must be fully compatible with European values and norms and comply with international legal instruments and obligations, as well as with the United Nations Charter. The status settlement should aim at a Kosovo "where all – regardless of ethnic background – are free to work and travel without fear, hostility, or danger and all citizens are treated equally and different cultures are respected."<sup>7</sup>

Bulgaria has valuable experiences along exactly the lines prescribed for Kosovo by the EU Council. It is also convinced that the territory's final status should take into consideration the implications for the wider regional context. Bulgaria finds it heartening that the European Union "attaches great importance to a positive outcome of [the future status] process" and that "its success will be essential both for providing a clear perspective for the people of Kosovo and for the overall stability of the region".<sup>8</sup>

At his meeting with Mr Ahtisaari, Bulgarian Prime Minister Sergei Stanishev underlined Bulgaria's readiness to "participate actively in the diplomatic efforts to reach a solution on the Kosovo issue".<sup>9</sup> Expressing hope that Kosovo's future status will not threaten regional stability, Stanishev encouraged "useful contacts at all levels", the aim being to hear "the 'voice' of the region".<sup>10</sup> For his part, the Special Envoy stated that stability in the Balkans influences not only the region, but the whole of Europe and "this has to be repeated to the people in the European countries".<sup>11</sup>

In Sofia, Special Envoy Ahtisaari also held talks with President Georgi Parvanov, Speaker of Parliament Georgi Pirinski, and Foreign Minister Ivaylo Kalfin. Speaking to media representatives after his meeting with Minister Kalfin, the Special Envoy noted that he very much appreciated "the constructive efforts of the Bulgarian government on the issue of Kosovo".

#### *As FSC Chair (May-July 2006), Bulgaria Encourages Security Dialogue*

On assuming the Chair of the Forum for Security Co-operation (FSC) in mid-year, Bulgaria realized it had an immense responsibility. This took the form of steering the Forum in its efforts to make good on the commitments and

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7 Council Conclusions on the Western Balkans, 2687th External Relations Council Meeting, Brussels, 10 May 2006, at: <http://www.delprn.ec.europa.eu/en/whatsnew/20051107.htm>.

8 Austrian Presidency of the EU, EU Response to the Minister of Foreign Affairs of Serbia and Montenegro, Mr. Vuk Draskovic, OSCE Permanent Council No. 608, 11 May 2006.

9 Sergei Stanishev, Any solution to the Kosovo issue should have as its objective stability in the Balkans, 8 May 2006, at: <http://www.government.bg>.

10 Ibid.

11 Ibid.

mechanisms relating to politico-military matters, as well as to enhance military security by promoting openness, transparency, and co-operation among participating States. This sensitive work could not be carried out in isolation from the evolving general political atmosphere in the Permanent Council and the FSC – the OSCE’s two key decision-making bodies. That atmosphere, while not negative, was not exactly propitious for any major initiatives or breakthroughs. There was not much movement in the key areas of the FSC’s activities. Differences in the interpretation of the 1999 Istanbul commitments in view of the failed CFE Third Review Conference left their mark on the first half of 2006. This issue does not pertain directly to the FSC but it influenced the mood within it. Under these circumstances, Bulgaria ensured that the Forum’s security dialogue continued and provided ample opportunity for any delegation wishing to introduce proposals for consideration in the two Working Groups.<sup>12</sup>

The tentative working programme of the three countries chairing the FSC in 2006 (Bosnia and Herzegovina, Bulgaria, and Canada) set out the scope and pace of activities and the objectives for the year, aiming for them to be “manageable”. The main priorities were outlined and the approach of the Chair to undertaking them was elaborated in some detail in the Statement of the Chairperson on the occasion of the assumption of the FSC Chairmanship by the Republic of Bulgaria.<sup>13</sup>

Assisted by the Italian *chef de file* and colleagues from the FSC Support Unit, the Bulgarian Chair completed the preparations for the fourth Annual Security Review Conference (ASRC) on 27-28 June 2006, and advised the Chairperson of the Permanent Council on the agenda and modalities of the conference. In particular, it tabled a list of relevant politico-military elements for consideration in Working Group B and subsequent discussion at the conference itself. The Bulgarian Chairmanship also provided the moderator for Working Session 2 of the ASRC, whose main task was to discuss and build upon the outcome of the excellent Seminar on Military Doctrine, which was organized by the Bosnia and Herzegovina Chairmanship on 14 and 15 February 2006 in Vienna.

The Bulgarian Chairmanship had the happy duty of presenting the OSCE’s achievements at the Second UN Review Conference on the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons (SALW) in all its aspects (New York, 26 June-7 July 2006). It did so after careful and lengthy preparations, which involved, in particular, the holding of a Special Meeting of the FSC on 17th May 2006. That meeting was characterized by an exceptionally high level of professionalism. The discussion focused on the current level of implementation of

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12 Peter Poptchev, Minister Plenipotentiary, Chargé d’Affaires of the Bulgarian Permanent Mission to the OSCE, chaired the Forum, while Mr Georgi Georgiev, Counselor, and Colonel Dobri Totev, Military Advisor, chaired working groups B and A, respectively.

13 Cf. Statement by the Chairperson, 3 May 2006.

SALW-related FSC decisions and documents and identified possible areas of future work. The delegations agreed that SALW achievements were a significant success story for the OSCE.

In his statement to the New York Conference on behalf of the OSCE, the Bulgarian Chairperson of the FSC emphasized that the OSCE Document on Small Arms and Light Weapons agreed upon by the FSC in 2000 constituted an OSCE landmark. It responded to the excessive accumulation and uncontrolled spread of small arms, which are significantly correlated with violence and crime. The document made a substantial contribution to the efforts emanating from the UN Programme of Action, the provisions of which were often similar and complementary to the OSCE document. Finally, the document committed participating States to a set of standards, which, if fully implemented, would help them to abide by the Programme of Action at national, regional, and global levels.<sup>14</sup>

Under the Bulgarian Chairmanship, the Security Dialogue continued to be lively and thought-provoking. Among the many interesting presentations at the Forum it is worth mentioning the speech by a representative of the US European Command on the external factors pertaining to the OSCE security environment and the views of the French Permanent Representative to the Conference on Disarmament in Geneva on the forthcoming Review Conference of the Convention on Certain Conventional Weapons. The US presentation, in particular, addressed strategic issues of particular relevance to the work of the FSC.

Responding to widespread interest among participating States, the Bulgarian FSC Chairmanship invited Ambassador Peter Burian, Chairman of the UNSCR 1540 Committee, to speak to the Forum on developments in the implementation of that important Security Council resolution.

At the invitation of the Arms Control and Co-ordination Section, the Bulgarian FSC Chairperson took part in a meeting of the EAPC Working Group at NATO Headquarters and informed the members of the EAPC of the activities of the OSCE in the area of SALW regulation. He identified spheres of mutual interest and potential co-operation between the OSCE and NATO and encouraged their further development.

### *Bulgaria Appreciates the Economic and Environmental Dimension of the OSCE*

The Porto Ministerial Declaration of December 2002 reflected a growing awareness among the OSCE participating States of the important role the economic and environmental dimension could play. The adoption of the 2003 Maastricht Strategy Document for the Economic and Environmental Dimen-

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14 Cf. Statement on behalf of the OSCE by Mr Peter Poptchev, Chairperson of the Forum for Security Co-operation, 29 June 2006, New York.

sion and the Sofia Ministerial Council Decision on Improving the Efficiency and Effectiveness of the Economic Forum reiterated the political will of the OSCE in this field. Bulgaria fully supports this new approach.

It believes that the economic and environmental dimension, as one of the three pillars of the OSCE's comprehensive concept of security, is of particular relevance. Bulgaria adheres to EU policy, which stipulates that the OSCE should also address the security threats and challenges caused by economic and environmental factors.

In line with the priorities set by the Belgian Chairmanship, the 14th Economic Forum, which took place in Prague during the last week of May 2006, addressed major issues of importance to all OSCE States: transport development and the elaboration of handbooks on the business and investment climate and on labour migration. Bulgaria aligned itself with the EU position of highlighting the strategic importance of transport development in enhancing regional economic co-operation and stability, with a special emphasis on co-operation in specific regions. The key contribution of the OSCE lies in facilitating dialogue, which aims at raising awareness and creating political will to overcome obstacles to the development of transport activities.<sup>15</sup>

At the 14th Economic Forum, on the launching of the OSCE Investment and Business Guide, Bulgaria reminded delegates that under the Bulgarian Chairmanship in 2004, the importance of a good business climate for investment and economic development had been discussed as one of the priority issues. At the subsequent Economic Forum, the OSCE was encouraged to work with interested government authorities and policy makers to facilitate the sharing of information and experience in support of the development of legislation, policies, and practices that promote favourable conditions for investment and the development of small and medium-sized enterprises (SME). Bulgaria is pleased to see that an endeavour that started with Bulgarian involvement has now been completed successfully, due particularly to the efforts of the Co-ordinator of OSCE Economic and Environmental Activities and experts from Belgium and the United States.<sup>16</sup>

On this point, a Senior Advisor in the Office of the Co-ordinator of OSCE Economic and Environmental Activities stated in a letter that Bulgaria's support for a positive business and investment climate "is a perfect example for concrete follow-up activities of previous Chairmanships [...] highly welcomed by all delegations".

Bulgaria contributed to partnership in the OSCE by working on important decisions, i.e. on sending an election support team to Afghanistan and on granting Mongolia the status of Partner for Co-operation. In 2006, it contin-

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15 Cf. Austrian Presidency: EU Closing Statement; 14th Economic Forum, Prague, 24 May 2006.

16 Cf. Talking Points by Mr Liubomir Todorov, Minister Plenipotentiary, OSCE Delegation of Bulgaria, to the 14th Economic Forum, 22 May 2006. At the Bulgarian Mission, Mr Todorov is also in charge of relations with the Mediterranean Partners for Co-operation and other Partners.

ued to maintain and nourish good relations with the Mediterranean and other partners.

### *Bulgaria and the OSCE Human Dimension*

OSCE activities in the fight against racism, xenophobia, anti-Semitism, and other forms of intolerance gained momentum during the Bulgarian Chairmanship. In 2004, three major international events devoted to these issues were held in co-operation with Germany, France, and Belgium.<sup>17</sup>

As a result, the foreign ministers adopted a robust decision on tolerance and non-discrimination, which confirmed the OSCE participating States' determination to work together in combating terrorism, xenophobia, discrimination, and anti-Semitism. In addition, as part of the OSCE's overall fight against discrimination and the Organization's efforts to promote tolerance, the Chairman-in-Office appointed three Personal Representatives on Tolerance and Non-discrimination.

Bulgaria regards trafficking in human beings as a serious challenge to the goals and principles of the Organization, including the principle of indivisible security, which requires a well-co-ordinated, comprehensive approach. A key event in 2004 was the appointment of an OSCE Special Representative on Trafficking in Human Beings. The appointment of the new OSCE Representative on Freedom of the Media was another important step.

The Bulgarian Chairmanship included education, in the widest sense of the word, among its priorities. For example, a Ministerial Conference on Education as an Investment in the Future was held in Tashkent on 5 April 2004. The Conference brought together Ministers of Education from Central Asian states and Afghanistan and representatives of international financial organizations, development agencies, and research institutions.

At informal OSCE gatherings, held at the beginning of 2006, on possible short- and long-term steps to address issues raised by the publication of controversial cartoons, Bulgaria spoke "as a country, in which different religious communities have co-existed for centuries on end in a spirit of mutual tolerance and respect".<sup>18</sup>

It expressed understanding for the outrage and resentment of the Muslims in different countries, but also the firm belief that acts of violence and intolerance are inexcusable. In view of its status as an EU accession country, Bulgaria chose to reiterate that it believes and adheres to the system of values, standards, and principles of the European Union, in addition to those of the OSCE, including its practices on inclusiveness, tolerance, diversity,

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17 In 2004, as well as currently, the Officer in charge of Human Dimension issues at the Bulgarian Mission to the OSCE is Ms Selver Yumer, Third Secretary, who also covers Balkan matters.

18 A quote from Bulgarian Prime Minister Sergey Stanishev on the issue. Sofia, 9 February 2006.

mutual respect, and freedom of expression. It also concluded, from the discussions on the cartoons controversy, that the international community, and the OSCE in particular, should further engage in serious, deep, cross-cultural and inter-faith dialogue and expressed readiness “to participate in and facilitate such an exercise”.<sup>19</sup>

At the Ljubljana Ministerial Council, Bulgarian Deputy Prime Minister and Minister of Foreign Affairs Kalfin stated that enhanced co-operation and a comprehensive long-term approach remain effective instruments in the 21st century, ones that can ensure that democratic values prevail in all participating States and that adequate responses are made to new transnational threats. The Bulgarian delegation’s contribution to the work of the OSCE in 2006 endeavoured to put this policy into practice.

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19 Statement by the Chargé d’Affaires, Bulgarian Permanent Mission, Informal Gathering, Vienna, 16 February 2006.

## Ukraine after the March 2006 Parliamentary Elections: Quo Vadis?

### Introduction

Located in Eastern Europe on the Black Sea, bordered by Poland, Romania, and Moldova in the west and Russia in the east, Ukraine is the second largest country in Europe by territory (603,700 sq. km) and has a population of about 47 million people.<sup>1</sup> Although it is economically important for the transit of Russian oil and gas to the West, Ukraine has, nevertheless, long been neglected.

In October-December 2004,<sup>2</sup> the falsified results of the presidential elections in Ukraine set off the “Orange Revolution”, a series of mass protests throughout the country, as a result of which Viktor Yushchenko became the new president, and a new Western-oriented government was formed. The elections and post-election events have re-ignited international interest in Ukraine. These elections were characterized by considerable involvement on the part of Russia and of Western actors (and the USA in particular). Russia intervened in the affairs of Ukraine by making a number of unilateral economic concessions and by providing political support and legitimation to “its” candidate, Viktor Yanukovich, for instance, by sending influential politicians to Ukraine. Russia’s President Vladimir Putin himself visited the country twice on the eve of the elections. The West was also heavily involved – both financially and politically. The administration of US President George W. Bush purportedly spent 65 million US dollars<sup>3</sup> in supporting the pro-Western candidate, Viktor Yushchenko. Various politicians and American and European NGOs also provided the Orange Revolution with material and moral support, calling on Ukrainians to contest the election results and the legitimacy of the existing regime. The election was presented domestically and internationally not only as a choice between a fraudulent and corrupt government and the promise of democratic and liberal development, but also as a vital choice between Russia and the West.

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1 Cf. The 56 OSCE Participating States – Facts and Figures, in this volume, pp. 439-455, here: p. 454.

2 The first round of presidential elections took place on 31 October 2004, the second round on 21 November; they both were fraudulent, and finally, on 26 December, a re-run of the second round took place, which was seen as a “breakthrough”. For more details on the course of the elections and their assessments see OSCE Office for Democratic Institutions and Human Rights, *Ukraine, Presidential Election, 31 October, 21 November and 26 December 2004, OSCE/ODIHR Election Observation Mission Final Report*, Warsaw, 11 May 2005, ODIHR.GAL/33/05, at: <http://www.osce.org/odihr>.

3 Cf. Jean-Marie Chauvier, *Orange Revolution, Origins and Outcome. Ukraine: a New Cold War*, in: *Le Monde Diplomatique*, January 2005.

In the end, the leaders of the Orange Revolution – Yushchenko’s “Our Ukraine” bloc, Yulia Tymoshenko’s All-Ukrainian Union *Batkivshchyna* (“Fatherland”), and Oleksandr Moroz’ Socialist Party – declared their intention to strengthen democracy and economic liberalism and to integrate Ukraine into the EU and NATO. It seemed as a result that the period typified by the corrupt regime of President Leonid Kuchma (1994-2004) and the ambivalent games it played with both Russia and the Euro-Atlantic institutions would come to an end.

Since then, Ukraine has remained the focus of unremitting attention, as all developments in Ukraine in the aftermath of the election have been measured – both domestically and internationally – against the promises of the Orange Revolution. The parliamentary elections on 26 March 2006 were also followed closely. The “blue” Party of Regions, headed by Yushchenko’s opponent Yanukovich, which emphasizes close relations with Russia, received the largest number of votes, at 32.14 per cent, and gained 186 seats in parliament. The votes given to the “orange” parties, were distributed in the following way: Tymoshenko’s bloc received 22.29 per cent and 129 seats; 13.95 per cent of votes and 82 parliamentary seats went to Yushchenko’s Our Ukraine bloc; and Oleksandr Moroz’ Socialist Party won 5.69 per cent of the vote and 33 seats. The Communist Party, led by Petro Symonenko, with 3.6 per cent won the fifth largest number of votes and was entitled to 21 parliamentary seats.<sup>4</sup>

However, the significance of these elections goes much deeper than the official numbers indicate. The parliamentary elections were among the most important tests and challenges “post-revolutionary” Ukraine had to face. First of all, these were the first elections after the Orange Revolution, and their organization and conduct were an important test of whether Ukraine was committed to democratic ideals in practice. Second, Ukrainians were giving their verdict on the policies of the new government – the orange coalition. Third, in January 2006, Ukraine changed its “presidential-parliamentary” form of government into a “parliamentary-presidential” one, in accordance with the constitutional reforms passed by Ukraine’s parliament, the *Verkhovna Rada*, in December 2004. While, previously, half the members of parliament were elected on the basis of proportional representation and the other half in single-seat constituencies, as of 2006, all 450 members of the *Verkhovna Rada* were to be elected by proportional representation for five (instead of four) years. In the month following the first session of the *Verkhovna Rada*, the parliament had to form a coalition from the many parties represented that would include the majority of deputies (more than 225). Within two months, this coalition was to form a government, and to take the lead in naming the

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4 See official website of the Central Election Committee of Ukraine, at: <http://www.cvk.gov.ua/pls/vnd2006/W6P001>; Typology of the Ukrainian Elections, in: RFE/RL, *Belarus, Ukraine, and Moldova Report*, vol. 8, No. 13, 4 April 2006.

prime minister, in particular. Without going into details,<sup>5</sup> it is important to note that this reform has weakened the presidency and given more powers to the *Rada* and the prime minister. In Ukraine, the process of coalition building turned out to be protracted and difficult, and its results have been controversial. Finally, the parliamentary elections were again viewed as a choice between Russia and the West. Although this debate on whether Ukraine should aim to become a part of the West or should rather have a pro-Russian orientation was not as tense and dramatic as during the Orange Revolution, it is important for understanding political events during and after the elections. By considering these issues in the above-indicated sequence, this article will try to explain the situation in Ukraine before and after the parliamentary elections in March 2006.

### *Parliamentary Elections as the Confirmation of Ukraine's Decision to Pursue Democracy*

Biased coverage in state media, misuse of state resources, pressure on certain categories of voters, a lack of will to conduct a genuine democratic election, a higher incidence of various serious violations, a pattern of intimidation, massive corruption and fraud – these were the results of the presidential elections in Ukraine in 2004, which ignited the Orange Revolution.

By comparison, the parliamentary elections in 2006, more than a year later, were recognized by international observers as free and fair, conducted in accordance “with domestic law, OSCE Commitments, Council of Europe commitments and other international standards for democratic elections”.<sup>6</sup> Not only the official reports of the OSCE’s Office for Democratic Institutions and Human Rights (ODIHR) but also the representatives of individual Western states and organizations gave upbeat assessments of these elections. The EU Commissioner for External Relations, Benita Ferrero-Waldner, for example, saw them as “further proof of the consolidation of democratic standards in Ukraine since the Orange revolution”.<sup>7</sup> The US Ambassador to the OSCE, Julie Finley, said: “Ukraine has made an astonishing amount of progress in the past year and should serve as an inspiration to others.”<sup>8</sup> The com-

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5 For more details see: Ukraina stala parlamentsko-prezidentskoy respublikoy [Ukraine has become a parliamentary-presidential republic], in: *Podrobnosti*, 1 January 2006, at: <http://www.podrobnosti.ua/power/rest/2006/01/01/275197.html>.

6 Cf. European Parliament/Parliamentary Assembly of the Council of Europe, OSCE Parliamentary Assembly/OSCE-ODIHR/NATO Parliamentary Assembly (eds), *International Election Observation Mission, Parliamentary Elections, Ukraine – 26 March 2006, Preliminary Statement*, Kyiv, 27 March 2006, p. 1, at: [http://www.osce.org/documents/odihr/2006/03/18500\\_en.pdf](http://www.osce.org/documents/odihr/2006/03/18500_en.pdf).

7 Benita Ferrero-Waldner, cited in: The European Commission’s Delegation, Press Releases, News Archive: March 2006, at: [http://www.delukr.ec.europa.eu/press\\_releases.html?y=2006&m=3](http://www.delukr.ec.europa.eu/press_releases.html?y=2006&m=3).

8 Julie Finley, cited in: Jeffrey Thomas, *US Envoy Contrasts Belarus with Flourishing Democracy in Ukraine*, at: <http://usinfo.state.gov/utills/printage.html>.

ments by the official representatives of the Russian Federation were less effusive, but they also recognized the fair and free character of these elections: “Although conducted in an acute struggle and with some violations, [the elections] are to be judged valid. Citizens of Ukraine were able to make their conscious choice.”<sup>9</sup>

The elections demonstrated that the population has become more politically mature, and that the people of Ukraine really did make a “conscious” choice. At approximately 68 per cent,<sup>10</sup> election participation was higher than expected or estimated on the eve of the poll. Only 1.77 per cent of the electorate voted against all candidates.<sup>11</sup> The practice of “paper” parties, i.e. parties, created *ad hoc* for the elections by lobby groups, has proved to be unsuccessful. The holding of fair elections has allowed the population to exercise its right to freely express its political preferences.

The fact that the elections were internationally recognized as free and fair was an important achievement for a post-Soviet state. The way they were organized and conducted demonstrated that democratic ideals remained important both for the country’s government and for the population, who participated actively.

### *The Attitudes Expressed by the Population through the Elections*

Although the parliamentary elections have confirmed Ukraine’s general democratic orientation, their results, i.e. the political preferences expressed by the population, have also demonstrated the dissatisfaction and disappointment of the population with the country’s political direction since the Orange Revolution. This was illustrated, first of all by the high number of votes Viktor Yanukovich received. Second, the people gave many more votes to Yulia Tymoshenko’s bloc than to the pro-presidential Our Ukraine. The competition between the policies pursued by Yushchenko and Tymoshenko, as well as their personal animosity, resulted in the dismissal of Tymoshenko from the post of prime minister in September 2005, after which her party openly became Our Ukraine’s political opponent rather than a companion-in-arms. Moreover, the personal rivalry between the president and the former prime minister intensified, and the results of the presidential election were frequently interpreted as a personal victory for Tymoshenko over Yushchenko. While Yushchenko and his party were blamed for all the country’s misfortunes, Yulia, as she is called by the people, was idealized.

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9 Russian MFA Information and Press Department, *Commentary Regarding the Elections for the Supreme Rada of Ukraine*, Doc. 477-28-03-2006, at: [http://www.mid.ru/brp\\_4.nsf/e78a48070f128a7b43256999005bcb3/d3639963c28de884c325713f004629e7?OpenDocument](http://www.mid.ru/brp_4.nsf/e78a48070f128a7b43256999005bcb3/d3639963c28de884c325713f004629e7?OpenDocument).

10 Data presented by the Central Election Committee, cited in: *Podrobnosti*, 27 March 2006, at: <http://www.podrobnosti.ua/power/elections/2006/03/27/299288.html>.

11 Cf. Central Election Committee of Ukraine, at: <http://www.cvk.gov.ua/pls/vnd2006/W6P001>.

The general perception was that she had not had enough time to bring order to the country. Thus, although the orange parties received more votes in total than the official victor, it is nevertheless not possible to say that the elections validated the Orange Revolution. The members of the orange coalition have become political opponents, pursuing different political programmes and personal objectives.

Moreover, the elections reflected the general disappointment of the population with the situation in the country. Economic indicators had deteriorated. While real GDP growth was twelve per cent in 2004, it fell to 2.6 per cent in 2005.<sup>12</sup> Many presidential election campaign promises and, more importantly, many “Maidan”<sup>13</sup> promises have remained unfulfilled. The most significant achievement following the Orange Revolution was the restoration of press freedom. However, even this turned out to be a challenge for the population and for the politicians, because the press started to carry reports of shady deals, and corruption scandals erupted, in which even the president was implicated. The very things that had been criticized during the Orange Revolution remained commonplace. As a study by the Ukrainian Centre for Economic and Political Studies (UCEPS) concludes, the new government has failed to carry out the expected reforms. Changes have been essentially cosmetic and confined to personnel. Even though the government has a new face, the content of its policies remains the same.<sup>14</sup>

The results of the parliamentary elections have thus highlighted the weaknesses of the orange coalition. Despite promised changes, the people continue to face the same problems they faced during Leonid Kuchma’s presidency – corruption and fraud. These issues have proved troublesome for the first orange government, and they will represent important challenges for the work of any Ukrainian government.

### *The Coalition-Building Process*

The coalition-building process in Ukraine was difficult and protracted. The newly elected *Verkhovna Rada* was only able to gather for its first session on 25 May. According to the Ukrainian Constitution, the coalition had to be created by 25 June, otherwise the president would have had to dissolve the parliament and call new elections. On 22 June, that is only three days before this important deadline, the creation of the new orange coalition, with the same members as the previous coalition, was announced, after which the coalition

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12 Cf. European Commission, DG Trade, Statistics, Ukraine, last updated 5 September 2006, at: [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113459.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113459.pdf).

13 *Maidan nezalezhnosti* is the Ukrainian for Independence Square, which was where the orange protests predominantly took place.

14 The results of the first year of the new Ukrainian government are evaluated in socio-economic terms in: *National Security and Defence* 9/2005, on “The New Government’s Economic Policy: First Steps and Their Effects”.

agreement was signed. President Yushchenko declared: “We are forming a new political culture, which will last for centuries.”<sup>15</sup>

Rather than lasting for centuries, however, the orange union turned out to be a somewhat ephemeral creature. As early as 11 July, a new “anti-crisis” coalition had been formed by the Party of Regions, the Communist Party, and the Socialist Party, which was seen as a traitor by the two other orange parties. The “anti-crisis” coalition nominated Yanukovych for the position of prime minister.

President Yushchenko faced the difficult choice between the two evils of dismissing the government and calling new parliamentary elections (the option promoted by Yulia Timoshenko) or endorsing the nomination of Viktor Yanukovych as prime minister. In the early hours of 3 August, just two hours after the Constitutional deadline had expired, following long and difficult deliberations and consultations, President Yushchenko announced his decision to endorse Yanukovych as prime minister. Thus, a so-called “coalition of national unity” was formed between Our Ukraine, the Party of Regions, and the Socialist and Communist Parties. A declaration of national unity was signed, which symbolically stated the intention of all signatories to pursue the basic goals and ideals of the Orange Revolution.

This coalition option was ultimately chosen by Yushchenko, because dismissing the parliament would have been a blow not only to his own party, but to the country in general. The long coalition-building process, personal rivalries, and the inability of the orange parties to reconcile their positions have undermined Ukraine’s international image. The dismissal of the parliament would not have solved the problem of political instability in Ukraine, but could have led to new difficulties. For example, it would have been hard to motivate the population to take part in new elections, not to mention the cost. Moreover, Yushchenko’s chances of coming to an agreement with his uncompromising rival, Yulia Timoshenko, were low.

President Yushchenko addressed the Ukrainian people as follows: “[...] I want to once again stress that I understand the whole complexity in the east and the west of Ukraine, regarding this nomination for the post of prime minister. I call on the country to understand that today we have a unique chance to realize all that we talked about, and to bring the country together for a political understanding.”<sup>16</sup> He is also recorded as saying, “I appeal to the Ukrainian parliament to come to a mutual understanding. The controversies that Ukraine is experiencing today were created not by the common

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15 Viktor Yushchenko, cited in: Laugh or Cry, in: *Economist*, 14 July 2006, at: <http://www.inosmi.ru/print/228801.html>.

16 Viktor Yushchenko, cited in: Jan Maksymiuk, Ukraine: President Compromises For National Unity, RFE/RL, 3 August 2006, at: <http://www.rferl.org/featuresarticle/2006/8/413086c1-70f6-49b7-aadf-d50598e63024.html>.

people but by the parliament, which from now on has the task of resolving them.”<sup>17</sup>

On 4 August, Yanukovych's appointment as prime minister was approved by the *Rada*. The appointment of a new prime minister will, on the one hand, provide a temporary respite from the political situation and controversies of the parliamentary elections of March 2006 and Yushchenko and Yanukovych will try to reconcile the supporters of the Orange Revolution and of the opposing pro-Russian political camp.

At the same time, however, the supporters of the Orange Revolution were disappointed by the president's decision, and following the appointment of Yanukovych, black ribbons were hung on trees around the parliament. The feeling has grown that the Orange Revolution has not achieved any results, and the entire struggle was in vain. Another negative consequence could be a further lack of political clarity within the government. The new coalition includes parties with very different orientations, including the liberal and pro-Western Our Ukraine, the pro-Russian and pro-market Party of Regions, as well as Communists and Socialists. This coalition still has to prove that these parties are able to work together and to find compromises on such difficult questions as the role of the state in the Ukrainian economy and re-privatization, and Ukrainian membership of NATO and the EU. The first disagreements and splits within the coalition have already begun. On 17 October, Roman Bezsmertnyy, the official leader of Our Ukraine, announced the party's decision to go into opposition. From the beginning, many of its members did not agree with the appointment of Yanukovych as prime minister or with the general idea of the coalition. It is also unclear to what degree the Communist Party is a part of the coalition, since it signed an incomplete version of the declaration of national unity, abstaining from important points. Many members of the Communist Party did not agree to the new coalition at all. Finally, the two Viktoros have a history of difficult relations. During the Orange Revolution, they were adversaries, representing not only different political programmes, but different values. Thus, it is doubtful whether they will be able to work together effectively.

To sum up, although the period of “no government” has officially come to an end in Ukraine, it is still questionable how functional and effective the new coalition will be. Personal animosities and disagreements have already undermined the work of the first orange government, destroyed the second orange coalition, and, as they are still present in the new national unity coalition, will likely destabilize the work of any coalition or government created. The results of the parliamentary elections have demonstrated the political immaturity of the political elites in Ukraine and the instability of the political situation. The coalition-building process was accompanied by protests from

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17 Viktor Yushchenko, cited in: Vladimir Solovyev/Aleksandr Sviridenko, Viktoru Yanukovichu podstavili kreslo [Viktor Yanukovych was given the chair], in: Kommersant, 6 August 2006, at: <http://www.readnews.ru/news/index.php?id=66289> (author's translation).

one party or the other, fights and bickering, mutual insults and accusations, betrayals and haggling. As long as the leaders of the parties concentrate on their own personal ambitions, mutual animosity, and grudges rather than on the development of the country, neither the formation of new coalitions nor new elections can be a remedy for the domestic political instability.

### *East or West?*

Another problem, underlined by the parliamentary elections in 2006, is the on-going division of Ukrainian political opinion between a more Russian and a more Western orientation. Since the Orange Revolution, there has been serious debate about whether Ukraine should develop in the direction of Euro-Atlantic integration or towards closer ties and integration with Russia. This was also evident in political campaigning on the eve of the parliamentary elections. While the representatives of the parties made only ambiguous statements concerning concrete economic steps and political reforms, the geopolitical orientation of Ukraine was a top priority in all discussions.

The division of Ukraine on this issue is regional. The results of the parliamentary elections indicate that Yanukovich's Party of Regions was supported mostly in the eastern regions, while the orange parties received most of their votes in the west and south.<sup>18</sup> Thus, the division of the country – with its eastern parts supporting closer relations with Russia, and its western and southern regions aspiring to Euro-Atlantic integration – remains as relevant as it was during the Orange Revolution.

This regional division has international implications. In June 2006, for example, there were strong protests in the Crimea following the arrival of 200 US Marine reservists to prepare for participation in the NATO exercise "Sea Breeze". Elderly Communists, Ukrainian Russian nationalists, representatives of the Party of Regions, contingents of Cossack units as well as some Russian nationalist politicians and activists sought to "protect" the territory of Ukraine from the "US invasion". While there was nothing new in the exercises, such a vigorous reaction reflects the strong politicization of Ukrainian society. The Supreme Council of the Crimea and some other areas declared the Crimea to be a NATO-free zone. There were, however, grounds for these protests. In February 2006, before the elections, the *Verkhovna Rada* of Ukraine failed to agree on the law approving the president's decision to admit foreign troops participating in multinational military exercises to Ukraine. Despite this, at a meeting of the Council of National Security and Defence of Ukraine in the spring, it was decided to confirm the invitation to Ukraine's partners to send their military forces to participate in the joint military exercises, with the hope that the parliament would soon approve the necessary law. With the *Verkhovna Rada* unable to hold its first session until 25

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18 Cf. *ibid.*

May, there was no functioning parliament to adopt the law, and the anti-NATO groups took advantage of this gap.<sup>19</sup> Thus, the failures of the political elites to agree on compromises may have destabilizing effects on the situation in Ukraine.

These internal political clashes and the regional division of Ukraine illustrate that one of the most important questions the country faces is how to develop while negotiating its orientation between East and West. The orange government prioritized integration into the EU and NATO over closer links with Russia. Although Ukraine has not received any practical support or commitments from the EU and NATO to accept it as a member after necessary reforms are implemented, this policy aggravated relations between Russia and Ukraine.

Russia's policies towards Ukraine since the Orange Revolution have been interpreted as retaliation or punishment for Ukraine's Euro-Atlantic political course and/or as a way to exert pressure on Ukraine to bring it back into the Russian zone of influence. Many of the problems in Russian-Ukrainian relations that seemed "frozen" have re-ignited with a new intensity. They include Ukraine's participation in the Commonwealth of Independent States (CIS), the presence of the Russian Black Sea Fleet in the Ukrainian city Sevastopol, the demarcation of the Azov Sea and the division of its resources, the delimitation of the borders, and, finally, deliveries and transit of Russian energy, especially gas. In the winter of 2005, Russia decided to raise the price it charged Ukraine for gas from 50 to 230 US dollars per 1,000 cubic metres. In January 2006, after a long and hard-fought debate, Russia briefly cut off gas supplies to Ukraine when the latter refused to pay world market prices for its energy imports from Russia. Although an agreement signed on 2 February 2006 set the price at 95 US dollars for the year 2006, the issue had been resolved only temporarily.<sup>20</sup>

One of the central messages of the electoral campaign of Viktor Yanukovich was his goal of improving relations with Russia. Among other things, he campaigned for closer relations with Russia, for Ukraine's participation in the Single Economic Space (SES), a Russian-led integration initiative, for making Russian the second official state language, and against Ukraine's membership in NATO in the near future. As the new prime minister, he has already stated that while integration into the EU remains a priority, integration into NATO should be postponed and Ukraine will not adopt the NATO Membership Action Plan, a key step on the way to membership. Moreover, even during the talks with the EU in Brussels in September 2006, Yanuko-

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19 For more details see, for example, *Territoriya, svobodnaya ot vlasti?* [Territory free of power?], in: *Zerkalo Nedeli* No. 21, 3-9 June 2006, at: <http://www.zerkalo-nedeli.com/ie/print/53571>.

20 See, for example: Maksymiuk, cited above (Note 16).

vych emphasized that “a special place will be assigned to the restoration of a mutually advantageous good neighbourhood with Russia”.<sup>21</sup>

Although this stance has already been interpreted as a pro-Russian gesture of friendship, the domestic realities in Ukraine should not be forgotten. According to the September 2005 UCEPS surveys on the trajectory of foreign policy, a plurality of 43.1 per cent supported strengthening relations with Russia. The EU was seen as a priority by 27.1 per cent.<sup>22</sup> The attitude of Ukrainians towards the US remains cautious: Only two per cent of the population would like to see relations with the US as a priority of foreign policy.<sup>23</sup> Another national poll, conducted by the Democratic Initiatives Fund in January 2006, demonstrated that while 42.6 per cent of Ukrainians support the country’s accession to the EU, 56.8 per cent support membership of the SES.<sup>24</sup> Furthermore, only 19.2 per cent of respondents supported Ukraine’s entry into NATO, while 55 per cent were against it.<sup>25</sup> Thus, the pro-Russian orientation of the new prime minister has its legitimation in the population.

At the same time, although the appointment of Yanukovich was interpreted as an opportunity to restore positive Russian-Ukrainian relations, the extent to which his government can succeed in that endeavour remains doubtful. The pro-Russian credentials of the Party of Regions can be questioned. It is strongly supported by the Donetsk and Dnepropetrovsk business clans, but they follow their own business interests first and foremost, co-operating not only with Russia, but also with European and US companies. The idea of making Russian the second official language has already been put on the back burner. Finally, despite supporting SES integration in general, Yanukovich has already declared that Ukraine will not participate in one of its basic aspects – the customs union.

Moreover, the Russian government has already demonstrated that despite the pursuit of positive relations between Russia and Ukraine, in some aspects its new policy towards its neighbour will be unchanged. Russian representatives were positive about the appointment of Yanukovich as prime minister. Most importantly for Russia, the parliamentary elections in Ukraine

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21 Viktor Yanukovich, cited in: Ukraine will not play “beggar” to EU, new leader says, at: <http://euobserver.com/9/22344/?print=1>.

22 However, this does not mean that Ukrainians are ready to give up their dream of EU membership. Over 65 per cent of the population would like to see Ukraine in the EU, but this goal is perceived as a rather unrealistic one. Cf. Some 40 per cent of Ukrainians against Referendum on NATO Membership, in: *David Johnson’s Russia List* 31/2006. Moreover, the UCEPS polls also indicate that while the EU and Russia consistently dominate Ukrainians’ foreign policy priorities, they are constantly exchanging the position of top priority. In April 2005, for instance, 39.6 per cent of Ukrainians considered relations with the EU the country’s top foreign policy priority, while 34.9 per cent believed relations with Russia were more important. The “emotional component” strongly influences the opinions. Cf. EU Enlargement: Approaches and Assessments, in: *National Security and Defence* 11/2001, p. 40.

23 Cf. *ibid.*, p. 43.

24 Cf. Ukrainian news agency UNIAN, Poll shows Ukrainians favour joining CIS economic bloc ahead of EU, in: *David Johnson’s Russia List* 44/2006.

25 Cf. *ibid.*

in 2006 have indicated “the desire of [the Ukrainian] people to develop and deepen good-neighbourly and partner relations with Russia”.<sup>26</sup> Nevertheless, Russia is not ready to change its policy of increasing the price of gas sold to Ukraine. On 24 October 2006, Russia and Ukraine agreed on a new price for Russian gas of 130 US dollars per 1,000 cubic metres, instead of the current 95 US dollars. Despite Yanukovich’s optimism, this agreement was criticized in Ukraine.

While the government is composed of such different groups, whose interests are both in the “West” and in the “East”, it may be reasonable to expect the return of a “multi-vector”<sup>27</sup> foreign policy in Ukraine, instead of a strong Euro-Atlantic orientation, with the statements of different politicians reflecting different interests and objectives. Just a few days after Yanukovich’s trip to Brussels, President Yushchenko announced that the prime minister’s comments had been “mistaken” and were not in accordance “with the national interest”.<sup>28</sup> Thus, as was mentioned in the previous section, it is questionable whether the two opponents will be able to work together more successfully than Yushchenko and Timoshenko did. The coming months will be characterized by further jousting for power.

In a nutshell, the Ukrainian government continues to face the challenge of reconciling the twin priorities of its foreign policy – getting closer to the goal of Euro-Atlantic integration while maintaining and deepening positive and constructive relations with Russia. The regional division of Ukraine remains relevant and has the potential for further destabilization.

### Conclusions

The parliamentary elections in Ukraine in 2006 were a significant event that drew international attention to the country. The fact that they were certified as free and fair was an important achievement after the Orange Revolution. Despite disappointments, the Ukrainian population demonstrated their political maturity and commitment.

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26 Ministry of Foreign Affairs of the Russian Federation, *Russian MFA Information and Press Department Commentary Regarding the Elections for the Supreme Rada of Ukraine*, Doc. 477-28-03-2006 (unofficial translation from Russian), at: [http://www.mid.ru/brp\\_4.nsf/e78a48070f128a7b43256999005bcbb3/d3639963c28de884c325713f004629e7?OpenDocument](http://www.mid.ru/brp_4.nsf/e78a48070f128a7b43256999005bcbb3/d3639963c28de884c325713f004629e7?OpenDocument).

27 “Multi-vectorism” began during the late stages of Leonid Kravchuk’s (1991-94) presidency, but it became especially conspicuous during the Kuchma period (1994-2004). This Ukrainian policy has negative connotations, because it created a situation in which the ruling elites could use either the Russian or the Euro-Atlantic vector at different times, making Ukraine’s foreign policy look inconsistent, unstable, unpredictable, and opportunistic. For more on multi-vector policy see: Taras Kuzio, *EU and Ukraine: a Turning Point in 2004?* Occasional Paper No. 47, Paris 2003; James Sherr, *The Dual Enlargements and Ukraine*, in: Anatol Lieven/Dmitriy Trenin (eds) *Ambivalent Neighbours. The EU, NATO and the Price of Membership*, Washington D.C. 2003, pp. 126-127.

28 AFP, Pro-Russian PM blows Ukraine off Western course, in: *David Johnson’s Russia List* 210/September 2006.

These achievements, however, were overshadowed by the conduct of the Ukrainian political elites, who were preoccupied with jockeying for position and settling old grudges. Not only was the international image of Ukraine further damaged, especially with a view to its NATO and EU aspirations, but its internal situation, characterized by regional differences and conflicting views on the country's future, was further complicated. In sum, the results of the elections have revealed a political situation that is rather unstable.

Moreover, the elections have reflected the dissatisfaction of the population with the government, with the level of corruption and fraud in the country's institutions, and with the negative impact of Euro-Atlantic integration on relations with Russia. Thus, even though Ukraine has taken some slow steps in the direction of democracy, it is hardly possible to say that the results of the elections have confirmed the "validity" of the Orange Revolution.

It is quite popular in Ukraine to blame Russia for Ukraine's internal failures. For example, Oleksandr Sushko, research director of the independent Institute for Euro-Atlantic Co-operation in Kiev, contends: "The Kremlin is interested in the failure of the Ukrainian model [...] Russia will do whatever it can to end this example of openness, pluralism, and transparent governance on its frontier."<sup>29</sup> Nevertheless, the major threat to Ukraine is Ukraine itself.<sup>30</sup> Ukraine's progress is *a priori* undermined by its inability to form a functional government with leaders who would concentrate more on the development of the country than on their own rivalries. It is difficult to name the winners of the parliamentary elections, since their personal and political disagreements and their past failures to find compromises and effective working formulas undermine any apparent victories. The new political situation is characterized by the struggle for power between the president and the prime minister as well as by power games between the different parties. Moreover, the new government has been challenged to find effective compromise solutions to key questions of domestic development as well as international orientation.

Finally, it is still unclear how and whether Ukraine will be able to reconcile its aspiration of Euro-Atlantic integration with co-operative relations with Russia. There are signs that the "multi-vector" policy of the Kuchma period is returning; and the Ukrainian president and the new prime minister are already speaking in different voices on key issues.

Thus, Ukraine's parliamentary elections have created many dilemmas. In this article, most of the questions raised have remained unanswered to some degree, because the answers are to be found in the future politics of Ukraine. These dilemmas demonstrate that the political process in Ukraine is not

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29 Oleksandr Sushko, cited in: Fred Weir, After Ukrainian vote, Russia aims to limit West's pull, in: *Christian Science Monitor*, 4 April 2006, at: <http://www.csmonitor.com/2006/0404/p04s01-woeu.html>.

30 Cf. Oleksandr Goncharenko, cited in: Sherr, cited above (Note 27), p. 127.

static, but dynamic, and Ukraine, with all its victories, successes, failures, disillusionments, and even crises, is developing – but in which direction? Ukraine, *quo vadis?*



## Not Frozen but Red Hot: Conflict Resolution in Georgia Following the Change of Government

### *Introduction*

With the fall of President Eduard Shevardnadze on 23 November 2003, Mikhail Saakashvili was hailed in Georgia as a national saviour. Especially in the capital, Tbilisi, euphoric cries of “Misha” could be heard for weeks afterwards. The majority of the population had no doubt that the leader of the “Rose Revolution” would be the next president of Georgia, thereby bringing about a generational change in the political elite – one that was staged effectively by the media and considered long overdue by national and international observers.

However, this “smooth” transition, whose non-violent nature gained it so much attention, has not yet brought about a fundamental transformation of political, social, and economic relations in Georgia. The Georgian-Abkhaz and Georgian-South Ossetian conflict resolution processes, on the other hand, are very much at the centre of attention. Restoring territorial integrity is the top priority for Georgia’s new leaders. In seeking to achieve this, police and quasi-military operations have often been used, contributing to worrying escalations in both conflict zones. Bloody clashes, often ending in fatalities, have been particularly prevalent in South Ossetia.

We cannot yet foresee the consequences of repeated military confrontations. It is clear, however, that the lack of common ground that could be used as a basis for negotiation means the hoped-for rapid peaceful resolution has receded into the distant future. The change of regime in Tbilisi has led the conflict parties to further harden their contrary positions. The current contribution is concerned with the main factors that have played a part in this renewed deterioration in Georgia’s ethno-political conflicts with Abkhazia and South Ossetia. By describing recent developments in the two conflict regions and comparing them with Saakashvili’s policies so far, I hope to give an overall impression of Georgia’s current political situation.

### *Revival of the Conflict Resolution Processes*

Both the Georgian-Abkhaz conflict and the Georgian-South Ossetian conflict have been considered “frozen” up to now. In the last instance, however, the term “frozen” is misleading – at least when applied to the conflicts themselves. In truth, armed clashes between the conflict parties were and remain commonplace. What was frozen, in the last years of Shevardnadze’s rule,

were the various conflict resolution processes, as negotiations became increasingly deadlocked.

It was only with Saakashvili's accession to the presidency that the *de facto* independence of Abkhazia (since 1992) and South Ossetia (since 1993) was seriously challenged. The lethargy that characterized the conflict resolution process under Shevardnadze had only served to consolidate the status quo. In contrast, Saakashvili made it clear from the start that the new government's top priority was to restore Georgia's territorial integrity. Economic incentives, stabilization of the country, and the granting of "the broadest autonomy" to the separatist territories were designed to counteract the further fragmentation of the Georgian state. Nonetheless, it is hard to find evidence of concrete measures that were intended to achieve this.

Instead, in the first few months of the new Georgian government, military activities were more prominent. Deserving of special attention is the sabre-rattling posture taken towards Ajaria, a province in the south west of the country, which eventually concluded peacefully with the flight of the local ruler Aslan Abashidze into exile in Moscow in May 2004 and the re-establishment of Ajaria as Georgian sovereign territory. In the summer of 2004, the Georgian Interior Ministry carried out extensive operations – described as police operations, but military in character – in South Ossetia that officially aimed at the long-term elimination of smuggling from the region. The military confrontation that followed was the spark that reignited the conflict between Georgia and South Ossetia.

The Georgian government's employment of military force in Ajaria and – just a few weeks later – in South Ossetia proved extremely obstructive to conflict resolution. Moreover, Georgia's "new nationalism" goes hand in hand with a strengthening of the military that frequently meets with scepticism and mistrust.<sup>1</sup> Against this background, the frequent military exercises carried out by Georgian reserves, and the militaristic and nationalistic overtones of the speeches given by Saakashvili and his defence minister, Irakli Okruashvili, at the Tbilisi Palace of Sport in the summer of 2005 were seen by Abkhazians, South Ossetians, and members of the international community as signs of Georgian remilitarization.<sup>2</sup>

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1 The expression "new nationalism" is taken from David Aphrasidze, Georgia's New Nationalism: A Better Opportunity for State Building? in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2004*, Baden-Baden 2005, pp. 179-190.

2 Georgian Leadership Dances to Patriotic Tune, in: *Civil Georgia*, 11 September 2005, at: <http://www.civil.ge/eng/article.php?id=10722>. The author's conversations in Tbilisi and Sukhumi in September to November 2005 underlined this point vividly.

The actions of the Georgian police in the summer of 2004 led to a higher level of readiness to use violence in the Georgian-South Ossetian conflict zone. Although a ceasefire was agreed in August 2004, there have continued to be sporadic exchanges of fire, and several soldiers were killed in one such incident in October 2004. The trust that had been painstakingly built up over more than a decade of negotiations between the conflict parties has largely been destroyed. The results of all negotiations hitherto carried out were declared invalid, while a demilitarization agreement concluded in November 2004 has still not been implemented.

It therefore hit the Georgian side particularly hard when, in December 2004, the Russian delegation to the Permanent Council of the OSCE voted against extending the mandate of the OSCE Border Monitoring Operation. The 250 unarmed OSCE border monitors, who had been responsible for overseeing sections of frontier in northern Georgia totalling 280 km in length, withdrew as early as January 2005. The OSCE undertook damage limitation, starting a training programme for 800 Georgian border troops in mid-April.

In the conflict zone itself, the situation remains extremely unsettled. Detonations are an almost daily occurrence, frequently killing and wounding. In Gori, for instance, a Georgian town near the South Ossetian border, a bomb explosion in February 2005 left four people dead and 20 injured. Abductions are also frequent, and often end in fatalities. On 20 September 2005, the 15th anniversary of the South Ossetian declaration of independence, the South Ossetian capital, Tskhinvali, came under mortar fire from nearby Georgian villages, and ten people were wounded. In early October 2005, armed men entered the Georgian village of Berula in South Ossetia and opened fire, wounding two people. On 5 December, shots were exchanged during the arrest of a South Ossetian deputy police chief by Georgian military police, and he was injured. The next day, South Ossetian militias took somewhere between ten and 20 Georgian police and civilians hostage. When Georgians are arrested by the South Ossetian authorities, the reactions of the Georgians' relatives can be equally tumultuous. In the last two years, in an effort to secure the release of Georgians who have been kidnapped or are held in South Ossetian custody, their relatives have repeatedly set up blockades on the main South Ossetian highway – sometimes for several weeks at a time.<sup>3</sup>

The security situation became especially precarious again in July 2006. On 9 July, a member of the Georgian security services was killed in a bomb

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3 This road, which passes through Tskhinvali and is also known as the Transcaucasian Highway is of great strategic importance as it provides access to the Roki Tunnel, which, apart from the Georgian Military Highway, is the only link between Georgia and the North Caucasus/Russia. Most of the South Ossetian villages with an ethnic Georgian population are also found north of Tskhinvali. A more detailed account of events in the Georgian-South Ossetian conflict in 2004 and 2005 can be found in: Marietta König, *Georgien (Südossetien)*, in: Arbeitsgemeinschaft Kriegsursachenforschung (ed.), *Das Kriegsgeschehen 2005* [Events in Warfare 2005], Wiesbaden 2006.

attack in South Ossetia. Just a few days later, on 14 July, two young civilians were killed in a bomb explosion in Tskhinvali.<sup>4</sup> The situation had escalated when the Georgian government blocked the highway in the north of Tskhinvali on 8 July. This led to the freedom of movement within the conflict zone of Russian members of the Joint Control Commission (JCC) being repeatedly restricted by armed Georgian security officers. As a result, the South Ossetian side boycotted the meeting of the JCC planned for 17 and 18 July.

This was particularly problematic as the JCC, together with the Experts' Group,<sup>5</sup> is one of the key frameworks for negotiation in the Georgian-South Ossetian conflict-resolution process. Every time a meeting of one of these bodies fails to take place, it is seen as an obstruction of the entire process.<sup>6</sup> The OSCE, on the other hand, appears to have its hands tied. With the withdrawal of the border monitors, its presence in South Ossetia is now minimal and currently concentrated especially on implementing projects that are largely funded by the EU.

On 14 June in Brussels, at the first donor conference for South Ossetia, organized by the Belgian OSCE Chairmanship, the participating States agreed to provide a total of ten million euros for the economic rehabilitation of the Georgian-South Ossetian conflict zone.<sup>7</sup> Despite the crisis in Russian-Georgian relations that followed, the Steering Committee on Economic Rehabilitation in the Georgian-South Ossetian conflict zone was able to convene on 6 October and agreed to establish a centre for the promotion of economic development in Tskhinvali.<sup>8</sup> Meanwhile, the South Ossetian authorities are continuing their efforts to secure independence. On 12 November 2006, another referendum on preserving *de facto* independence was carried out, again without international recognition. The most recent one had taken place in 1992.

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4 Cf. OSCE, *OSCE Chairman calls for calm and restraint in the zone of the Georgian-Ossetian conflict*, press release, Brussels, 11 July 2006, at: [http://www.mfa.gov.ge/index.php?lang\\_id=ENG&sec\\_id=78&info\\_id=1784](http://www.mfa.gov.ge/index.php?lang_id=ENG&sec_id=78&info_id=1784); OSCE, *OSCE Chairman alarmed at detention of Mission Officers in Georgian-Ossetian conflict zone*, press release, Brussels, 12 July 2006, at: <http://www.osce.org/item/19844.html>; *OSCE Mission to Georgia condemns Tskhinvali explosion which killed two young civilians*, press release, Tbilisi, 14 July 2006, at: [http://www.osce.org/georgia/item\\_1\\_19869.html](http://www.osce.org/georgia/item_1_19869.html).

5 Both the Joint Control Commission and the Experts' Group on the Georgian-South Ossetian conflict-resolution process generally meet on the initiative and under the *aegis* of the OSCE Mission to Georgia.

6 *Declaration by the Presidency on behalf of the European Union on recent developments in Georgia – Abkhazia and South Ossetia*, press release, 20 July 2006, at: [http://www.eu2006.fi/news\\_and\\_documents/cfsp\\_statements/vko29/en\\_GB/1153411017775](http://www.eu2006.fi/news_and_documents/cfsp_statements/vko29/en_GB/1153411017775); OSCE, *OSCE Chairman regrets delay of JCC meeting and detention of Russian diplomats in Georgia*, press release, Brussels, 17 July 2006, at: <http://www.diplomatie.be/en/press/homedetails.asp?TEXTID=55689>.

7 OSCE, *OSCE donors pledge more than 10 million euros for economy in Georgia/South Ossetia*, press release, Brussels, 14 June 2006, at: [http://www.osce.org/cio/item\\_1\\_19513.html](http://www.osce.org/cio/item_1_19513.html).

8 OSCE, *OSCE Chairman welcomes first meeting of Steering Committee on Economic Rehabilitation in Georgian-Ossetian Conflict Zone*, press release, 6 October 2006.

The events in Ajaria and South Ossetia also affected Georgian-Abkhaz relations. The Abkhaz government observed political developments in Tbilisi and the actions of Georgia's President Saakashvili closely. The fall of Shevardnadze and the absence of major instability and violence during the Rose Revolution were viewed with relief but also concern. In contrast to those of his predecessor, Saakashvili's actions are hard to foresee. His image – not only in Abkhazia – is remarkably poor. “Bad tempered” and “unpredictable” are the attributes most often used to describe him.<sup>9</sup>

Abkhazia appears ever more self-confident in its dealings with its partner Russia. The background to this is that Abkhazia had its own mini “Rose Revolution” in the autumn of 2004, which confounded the sceptics by ushering in the political self-determination of Abkhaz civil society. Raul Khadjimba, whose candidacy for the presidency was supported by Russia as well as the then *de facto* president, Vladislav Ardzinba, was accused of fraudulently winning the presidential elections of 3 October 2004 (which were not internationally recognized). Just one day after the election, the Central Election Commission, which was under enormous public pressure, declared the results that had been published so far to be invalid. On 11 December, the opposition candidate Sergei Bagapsh was declared the victor. The following tug-of-war over the results lasted for weeks. The opposition occupied the government building, and supporters of both candidates took their protests to the streets. When shots were fired, the situation threatened to escalate.

In this situation, Russia's behaviour was particularly ambiguous. Moscow was openly supporting Khadjimba and even threatened Bagapsh by claiming it would consider intervening in Abkhazia if he “threatened Russia's interests”.<sup>10</sup> At the same time, Russia repeatedly invited both Bagapsh and Khadjimba to talks in Moscow to seek a mutually acceptable way out of the impasse. When the Abkhaz parliament came out for Bagapsh, Russia closed the border to Abkhazia and imposed a blockade. On 6 December, a compromise was finally reached: In the rerun of the election, Bagapsh would stand for president and Khadjimba for vice-president, thereby enabling them to share power based on their almost equal support. Bagapsh was elected as the new president of Abkhazia on 12 January 2005 and sworn in on 12 February.

Thus, after ten years of Vladislav Ardzinba's regency, a real change in who was holding the reins of power had proved possible. Abkhazians regard this as a victory over external attempts to exert control. They are proud of having won the battle of wills with their larger neighbour, even if Russia does remain Abkhazia's most important partner for co-operation and trade. One result is the virtual elimination of internal Abkhaz differences. Nor is it remarkable that the majority of the Abkhaz people, and above all the younger

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9 Interviews carried out by the author in Abkhazia, October 2005.

10 Reported by Ekho Moskvyy, RIA Novosti, Itar-Tass, et al., 12 November 2004.

generation, are in favour of independence, while the older generation and ethnic minorities believe that becoming part of the Russian Federation is the more realistic course.<sup>11</sup> Abkhazia's increasing autonomy is also underscored by economic factors. In 2005 alone, 1.2 million tourists visited the region. The increase in revenue is most evident in the booming property sector. Russia only complies officially with the embargo imposed on Abkhazia by the CIS under pressure from Georgia in January 1996.<sup>12</sup> CIS peacekeeping troops are also among those who profit heavily from the Abkhaz black market.

In July 2006, Georgia launched an operation in the Georgian-Abkhaz border zone in an attempt to crack down on smuggling. Georgian police moved into the Kodori Valley, officially to restore security in the area, which is considered the main centre of smuggling in the conflict zone.<sup>13</sup> From the Russian and Abkhaz perspective, however, this operation is seen as an attempt to use military means to force Abkhazia to return to the Georgian fold, and thus constitutes a breach of the 1994 Moscow Ceasefire Agreement. Representatives of the Abkhaz media and NGOs released an official statement in which they tried to draw attention to what were, in their opinion, Georgia's true motives.<sup>14</sup>

In the meantime, Georgian paramilitary police are preparing to stay in the upper Kodori Valley in order to eventually bring it under Georgian control. However, possession of the Kodori Valley may be nothing more than a bargaining chip that Georgia can use to bring about (long-term) international inspections of the military base at Gudauta.<sup>15</sup> Officially, this formerly Russian base had been handed over for the use of CIS peacekeeping troops. As most of these are Russian, the base is still effectively in Russian hands. As a result, it is the only base that has remained hidden from Georgia's sight. Georgian-Abkhaz and Georgian-South Ossetian relations have deteriorated considerably because of the Kodori crisis. It is no accident that the meeting of the Joint Control Commission of the conflict parties in the Georgian-South Ossetian conflict on 12-13 October 2006 ended for the third time in succes-

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11 Interviews carried out by the author in Abkhazia, October 2005.

12 Decision Taken by the Council of the Heads of States of the Commonwealth of Independent States on Measures for Settlement of the Conflict in Abkhazia, Georgia, 29 January 1996, in: Tamaz Diasamidze (ed.), *Regional Conflicts in Georgia – the Autonomous Oblast of South Ossetia, the Autonomous Republic of Abkhazia (1989-2002). The Collection of Political-Legal Acts in English Language*, Tbilisi 2003, pp. 170f.; Decree Issued by the Government of the Russian Federation on Importing of Citrus and Some Other Agricultural Products to the Russian Federation, in: *ibid.*, p. 200.

13 According to Abkhaz sources, some 1,500 Georgian police and/or military personnel are in the Kodori Valley, in: *Apsnypress*, 27 July 2006. While the Abkhaz media speaks of troops, Georgia describes it as a police operation. Cf. Russia Fears Georgia will Use Kodori For Attacking Abkhazia, in: *Civil Georgia*, 29 July 2006, at: <http://www.civil.ge/eng/article.php?id=13211>.

14 Cf. *Apsnypress*, 27 July 2006.

15 Cf. Police Forces to Remain in Kodori, in: *Civil Georgia*, 26 July 2006, at: <http://www.civil.ge/eng/article.php?id=13181>; Tbilisi wants Gudauta Inspection in Exchange for Kodori Monitoring, in: *Civil Georgia*, 1 August 2006, at: <http://www.civil.ge/eng/article.php?id=13232>.

sion with no agreement being signed.<sup>16</sup> On 2 October, the *de facto* governments of Abkhazia and South Ossetia had declared jointly that they were breaking off talks with Tbilisi for the time being.<sup>17</sup> Abkhazia would only be willing to return to the negotiating table when Georgia had withdrawn from the upper part of the Kodori Valley. This, however, is unthinkable for the Georgian side, as their tactics have already brought a third of Abkhaz territory under their control. The United Nations has so far reacted cautiously to the Kodori crisis, merely calling upon the disputing parties to return to the negotiating table. It was certainly inconvenient that the term of office of Heidi Tagliavini, the Head of Mission of the United Nations Observer Mission in Georgia (UNOMIG), ended in July. In August 2006, she was succeeded by Jean Arnault, previously the Head of Mission of the UN Mission in Afghanistan.<sup>18</sup> On 13 October, the UN Security Council passed a resolution calling upon Georgia to refrain from “provocative actions, especially in upper Kodori Valley”.<sup>19</sup> Nevertheless, tensions remain. Rockets were fired on the upper Kodori Valley on 25 October.<sup>20</sup> Warlords operating in the Kodori Valley are believed to have been responsible.

### *Georgian Conflict Resolution Plans*

In a speech to the Munich Conference on Security Policy on 2 March 2006, Saakashvili reiterated clearly how he understood Georgia’s national interest:

1. The peaceful and complete restoration of Georgia’s territorial integrity
2. The establishment of lasting security through energy diversification and the creation of a modern national defense force
3. Broad economic growth and investment in education, health care and good governance
4. And integration into NATO and other European institutions, including constructive relations with all our neighbors.<sup>21</sup>

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16 OSCE, *OSCE Chairman expresses serious regrets at the failure of Joint Control Commission meeting on Georgian-Ossetian conflict*, press release, 13 October 2006.

17 Cf. *Secessionist Authorities quit talks with Tbilisi*, at: <http://www.civil.ge>, 2 October 2006.

18 Cf. United Nations, *Annan names Jean Arnault as new head of UN mission in Georgia*, press release, 17 July 2006, at: <http://www.un.org/apps/news/story.asp?NewsID=19217&Cr=georgia&Cr1=>.

19 United Nations, *Security Council extends Georgia Mission until 15 April 2007, Unanimously adopting Resolution 1716 (2006)*, 13 October 2006, at: <http://www.un.org/News/Press/docs/2006/sc8851.doc.htm>.

20 Cf. United Nations Observer Mission in Georgia, *United Nations Observer Mission in Georgia Investigation into Reports of Rocket Attack in Upper Kodori Valley*, 1 November 2006, at: [http://www.unomig.org/data/file/793/PR\\_2006\\_77\\_eng.pdf](http://www.unomig.org/data/file/793/PR_2006_77_eng.pdf).

21 Mikheil Saakashvili, *Georgia’s role in International Security Policy*, at: <http://www.securityconference.de/konferenzen/rede.php?sprache=en&id=163&>, 2 March 2006.

Georgia's allies in the Euro-Atlantic region are to help it implement these goals. In recent years, the USA has considerably expanded the financial support it provides to Georgia.<sup>22</sup> The visit of US President George W. Bush to Georgia in May 2005 was celebrated as a national holiday lasting several days. Bush has also repeatedly expressed his strong support of Georgia's desire to join NATO, stressing the importance of finding a rapid resolution to the conflicts in Georgia. Hardliners on the right wing of the US Republican party are particularly active in gathering signatures in the US Senate in support of the fastest possible accession of Georgia to NATO. Meanwhile, Russian foreign minister, Sergei Lavrov, has voiced the suspicion that Georgia may even have acted with the support of the USA and NATO, as a timetable for negotiations for Georgia to join NATO had been agreed a month earlier.<sup>23</sup>

In an effort to involve the international community more closely in the conflict resolution process, at the General Assembly of the United Nations, on 21 September 2004, President Saakashvili presented a three-step plan aimed at settling the South Ossetian and Abkhaz conflicts. Measures to build confidence between the ethnic groups, demilitarization and the search for a format for an international peacekeeping mission, and, finally, the resolution of the status question should be dealt with one by one.<sup>24</sup> On 27 October 2005, the Georgian prime minister, Zurab Nogaideli, presented an updated version of the "South Ossetia Conflict Resolution Plan" to the Permanent Council of the OSCE.<sup>25</sup> Because Georgia called for changes to the current negotiating framework and a rapid solution to the status question – before the end of 2006 – this plan was rejected by Moscow and Tskhinvali. Thereafter, the Georgian government returned to emphasizing Saakashvili's three-step plan, which lacks the two controversial points. The "Statement on Georgia" adopted by the Ministerial Council on 6 December 2005 underlined the significance of this plan as a basis for the peaceful settlement of the conflicts.

However, the Georgian government has still published no official document containing a detailed description of its concept for resolving the two ethno-political conflicts, and the existing three-step plan has not been further elaborated. According to the EU Special Representative, Peter Semneby, this was partly because moderate Georgian mediators were no longer involved. Giorgi Khaindrava, the former minister for conflict resolution, was replaced in July 2006 by the deputy foreign minister, Merab Antadze. In the same month, Saakashvili appointed Irakli Alasania, the former chief negotiator on Abkhazia, as Georgia's ambassador to the United Na-

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22 Cf. Aphrasidze, cited above (Note 1), pp. 186-187.

23 Cf. Steven Lee Myers, Russian Officials Pledge More Sanctions to Cut off Cash to Georgia, in: *The New York Times*, 4 October 2006.

24 Cf. Address by Mr. Mikhail Saakashvili, President of the Republic of Georgia, in: United Nations, General Assembly, Fifty-ninth session, 4th plenary meeting, 21 September 2004, A/59/PV.4, pp. 11-16, here: p. 14.

25 See: South Ossetia Conflict Resolution Plan – Presented by Prime Minister of Georgia Mr. Zurab Nogaideli, Vienna, 27 October 2005, in: OSCE, *Conference Services*, PC.DEL/1060/05, 27 October 2005.

tions.<sup>26</sup> While interesting papers have been produced by those with no formal role in the conflicts and discussed by the conflict parties, the media, NGOs, and the opposition,<sup>27</sup> the Georgian government has paid these little attention. Both the Abkhaz and South Ossetian sides meanwhile stress that only a document drafted jointly by Georgia and Abkhazia or South Ossetia, respectively, can be legally binding in the long term, noting also that this remains unlikely for the time being given the lack of dialogue.

### *The Resolutions of the Georgian Parliament*

From the Georgian perspective, the key obstacle to the long-term resolution of the two ethno-political conflicts is the constitution of the peacekeeping forces deployed in the conflict zones. The Georgian parliament passed its most recent resolution on the peacekeepers on 18 July 2006.<sup>28</sup> This resolution builds on the resolutions of 11 October 2005 and 15 February 2006, in which the presence and activities of the troops under Russian command in Abkhazia and South Ossetia were described as a major obstacle to the peaceful resolution of the conflicts. Georgia therefore explicitly demands the withdrawal of these forces, asking for them to be replaced by an international peacekeeping and police force. Only then would the way be clear for the reintegration of Abkhazia and South Ossetia in a united Georgian state, in which the rights of Abkhaz and South Ossetians would be guaranteed.

The Abkhaz and South Ossetian *de facto* republics have strongly protested against the resolutions of the Georgian parliament and demand that the existing ceasefire arrangements be maintained, according to which a CIS peacekeeping force is deployed in Abkhazia, and Joint Peacekeeping Forces (JPKF) – consisting of Georgian, Russian, and North Ossetian units (with South Ossetian peacekeepers serving in the North Ossetian contingent) – are stationed in South Ossetia.<sup>29</sup> International troops, biased due to their *a priori* recognition of Georgian territorial integrity, would act exclusively in Georgia's interests and would not take into account Abkhazia's desire for independence and South Ossetia's wish for reunion with the Republic of North

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26 Cf. Ahto Lobjakas, Georgia: EU Urges "Confidence Building" With Separatists, in: *RFE/RL Newsline*, 5 October 2006, at: <http://www.rferl.org/featuresarticle/2006/10/6a7772d3-d3ec-4a5f-a4e6-397682ea5d27.html>.

27 One example is Paata Zakareishvili, et al., *A concept on the special status of Abkhazia in the Georgian state (Project)*, Tbilisi 2004 (unpublished).

28 The resolution can be viewed at the website of *Civil Georgia*, at: <http://www.civil.ge/eng/detail.php?id=13079>.

29 Declaration on measures for a political settlement of the Georgian-Abkhaz conflict, signed in Moscow on 4 April 1994, in: Diasamidze, cited above (Note 12), pp. 132-135; Agreement on a Cease-fire and Separation of Forces, 14 May 1994, in: *ibid.*, pp. 138-141; Agreement on Principles of Settlement of the Georgian-Ossetian Conflict, in: *ibid.*, pp. 94f.

Ossetia-Alania (a federal subject of the Russian Federation).<sup>30</sup> They see Russia's troops as the only guarantee for the protection of Abkhaz and South Ossetian interests.

Moscow, however, is pursuing its own power-political interests in the region. By rejecting the extension of the mandate for the – unarmed – OSCE border monitors in late 2004, Moscow underlined its claim to an exclusive military presence in South Ossetia and Abkhazia. This, however, is being increasingly called into question by the new Georgian government. In 2005, negotiations lasting months were held between Georgia and Russia, in which Russia was forced to meet its commitments to close its military bases in Georgia, as agreed in the 1999 Istanbul joint declaration.<sup>31</sup> On 30 May 2005, a joint declaration on the withdrawal of Russian troops by the end of 2008 was signed in Moscow.<sup>32</sup>

It was further agreed, in accordance with Georgia's wishes as outlined above, to end Russia's dominance of the peacekeeping forces stationed in Abkhazia and South Ossetia in the long term and to implement their withdrawal as soon as possible. With every new resolution the Georgian parliament passed on this, Georgian-Russian relations reached a new nadir. This recently became clear when Saakashvili cancelled his attendance at the CIS summit in Moscow on 21 and 22 July 2006, ostensibly because Putin had refused to agree to meet him personally. Like Ukraine, Georgia plans to withdraw from the CIS, which it despises as wholly under Russia's sway.<sup>33</sup> This explicit antipathy to Russia on the part of the new Georgian government, in particular, contributed to the current crisis in Russo-Georgian relations. This was triggered by the arrest of four Georgia-based Russian army officers, who were accused of spying. They were handed over to the OSCE Mission in Tbilisi a few days later. By 28 September, Russia had already stopped issuing visas to Georgian citizens. On 3 October, Russia broke off all communications with Georgia. The official explanation given was outstanding payments owed by Georgian airlines, which Russia claimed total 3.6 million US dollars. However, Georgia disputed the existence of these debts. Russia then

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30 Like the UN and OSCE presences currently active in Georgia on the invitation of the Georgian government, an international peacekeeping force would be subject to international law, which aims to protect a state's territorial integrity. For this reason, external actors in ethno-political conflicts are often accused of non-neutrality and partisan support of the other party by the groups seeking to secede. The work of international organizations with a political mandate is therefore considerably more challenging than in cases of pure humanitarian intervention.

31 Joint Statement of the Russian Federation and Georgia, Istanbul, 17 November 1999, Annex 14 to the Final Act of the Conference of the States Parties to the Treaty on Conventional Armed Forces in Europe, in: Organization for Security and Co-operation in Europe, Istanbul Summit 1999, *Istanbul Document 1999*, Istanbul 1999, January 2000/Corr., pp. 236-252, here: p. 252, at: [http://www.osce.org/documents/mcs/1999/11/4050\\_en.pdf](http://www.osce.org/documents/mcs/1999/11/4050_en.pdf).

32 Ministry of Foreign Affairs of the Russian Federation, *Joint Statement by the Ministers of Foreign Affairs of the Russian Federation and Georgia*, Document No. 1233, 30 May 2005, at: [http://www.mid.ru/brp\\_4.nsf/e78a48070f128a7b43256999005bcbb3/bf502c80081d8ac5c32570120056b2d2?OpenDocument](http://www.mid.ru/brp_4.nsf/e78a48070f128a7b43256999005bcbb3/bf502c80081d8ac5c32570120056b2d2?OpenDocument).

33 Cf. RIA Novosti, 21 July 2006.

introduced a further sanction in the form of a ban on money transfers to Georgia, a means by which around a million Georgian migrant workers support their families. Hundreds of Georgians were also expelled from Russia. At least 200 Georgians are currently in custody pending deportation; an old man died in such circumstances in Moscow in mid-October. All offers of mediation by third parties are rejected by Russia. The Russian Foreign Ministry has stated that Georgia would only see external mediation as encouragement for its destructive policies. Georgia knows full well, Moscow claims, that only by giving up its anti-Russian policies can it help to defuse the tense situation. Moscow considers Georgia's current conduct to be a clear case of state terrorism.<sup>34</sup> Although the official view is that relations appear to be slowly normalizing as a result of international pressure, Gazprom announced, on 2 November 2006, that the price of gas sold to Georgia would double as of 2007, just as the Georgian foreign minister, Gela Bezhushvili, was in talks in Moscow with his Russian counterpart, Sergei Lavrov.

### Conclusions

The Georgian government is currently swinging dangerously between the moderate position it is forced to adopt by its Western partners in order to avoid losing essential support for political and economic consolidation, and the domestic pressure to demonstrate new successes in the fight against territorial fragmentation as soon as possible. A comprehensive strategy for modernizing Georgia's political culture, for promoting the willingness to engage in dialogue and discussion among the Georgian population, in order, finally, to facilitate constructive conflict settlement solutions, has not yet been forthcoming. Instead, Georgia's new rulers, who are generally young and have little experience of war, are rushing again and again into quasi-military operations disguised as policing, which increasingly run the risk of a return to open violence in the two conflict regions.<sup>35</sup>

In the search for factors that could promote long-term stability, attention has recently focused increasingly on the potential for Black Sea co-operation. From 24-27 June 2006, for example, a conference was held in Istanbul on

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34 Cf. Ministry of Foreign Affairs of Russia, *Prezident okharakterizoval dejstviya rokovodstva Gruzii kak gosudarstvennogo terrorizma s zakhvatom zolozhnikov* [The President Characterizes the Conduct of the Georgian Government as State Terrorism, Including Hostage Taking], 1 October 2006, at: <http://www.kremlin.ru>; Ministry of Foreign Affairs of Russia, *O telefonnom razgovore Ministra Inostrannykh del Rossii S. V. Lavrova s Deistvuyushim Predsedatelem OBSE, Ministrom Inostrannykh del Belgii K. De Gyukhtom* [On a Telephone Conversation between Russian Foreign Minister S.V. Lavrov and the Chairman-in-Office of the OSCE, Belgian Foreign Minister K. De Gucht], 4 October 2006, at: [http://www.mid.ru/brp\\_4.nsf/sps/D3AA3E328FAA7809C32571FD004CCFAF](http://www.mid.ru/brp_4.nsf/sps/D3AA3E328FAA7809C32571FD004CCFAF).

35 The police operations are indeed organized and carried out by the Georgian Interior Ministry, while the Defence Ministry works permanently on Georgia's efforts to join NATO. This makes it easy for the Defence Ministry to deny any military ambitions. Private conversations, Tbilisi, October 2005.

perspectives for Georgia and Abkhazia in the context of Black Sea integration, which was also attended by representatives of the EU and NATO.<sup>36</sup> EU policy has so far placed little value on the Black Sea region. The European Neighbourhood Policy (ENP), in particular, which has a high degree of relevance for the states of the South Caucasus, has – if one excludes the considerable financial support that has provided to a variety of programmes and projects and the successful appointment of an EU Special Representative for the South Caucasus in July 2003 – been more about lip-service than any well-founded strategy. To this day, the Special Representative has not been granted any powers to go with his mandate. His function remains that of an observer and reporter (to the EU), who rarely issues statements on his own account (the last time being on 5 October 2006, when the new Special Representative, Peter Somnerby, criticized Georgia's strongly worded demand for the withdrawal of the CIS peacekeepers on the grounds that it would only serve to intensify the conflict with Russia.<sup>37</sup> The deployment of EU peacekeeping troops, which Georgia desires, is still not on the agenda for discussion. The EU remains uninterested in playing an active roll in the official negotiations on the Georgian-Abkhaz and Georgian-South Ossetian conflicts but is rather content to retain the role of the largest provider of finance in the region.<sup>38</sup> From the EU's perspective, the Organization of the Black Sea Economic Cooperation (BSEC) has been insignificant for developing relevant regional co-operation. For this reason, the BSEC and its organs are not invited to strategically important meetings, despite their growing importance.<sup>39</sup> A German initiative has called for the EU and the BSEC to work together more closely in the future. This would create a field of action shared by the EU, the South Caucasian states, and other partners in the Black Sea region.<sup>40</sup> By establishing economic structures creating transregional ties, this could have a positive effect on the future development of the ethno-political conflict resolution processes, and could perhaps contribute to the long-term stabilization of the entire region. In view of current events, every attempt that could contribute to the long-term pacification of the region should be emphatically grasped.

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36 Cf. *Apsnypress*, 27 June 2006.

37 Cf. RFE/RL, Ahto Lobjakas, Georgia: *EU Urges "Confidence Building" With Separatists*, 5 October 2006.

38 The most recent resolution of the European Parliament of 25 October 2006 deviates from this position. It explicitly states that the EU should prepare for the possible deployment of peacekeeping troops in South Ossetia. See: <http://www.delgeo.cec.eu.int/en/press/25october2006.html>.

39 Cf. Markus Vahl, *The EU and Black Sea Regional Cooperation: Some Challenges for BSEC*, at: [http://www.ceps.be/Article.php?article\\_id=420](http://www.ceps.be/Article.php?article_id=420), Brussels, 15 April 2005.

40 Cf. Norbert Baas, *Vertrauen bilden, Stabilität schaffen. Die Vereinten Nationen und der georgisch-abchasische Konflikt [Build Trust, Create Stability. The United Nations and the Georgian-Abkhaz Conflict]*, in: *Osteuropa* 3/2006, p. 47.

## Why Is There No “Security Complex” in the Black Sea-Caucasus Region?

*Consideration of Some Geopolitical Peculiarities of the Region in the Conditions of Post-Bipolarity*

### *Introductory Note*

In the field of International Relations and the world of geopolitics, it has long been common to distinguish between geographic and geopolitical regions. The latter are characterized by the role a concrete geographic area plays in the system of international relations, by how politics uses geography, by the kind of political combinations laid out on the concrete geographic “ground”, and by the ensembles of relations that emerge as a result of fundamental historical transformations. In short, the notion of “geographic region” is to a greater extent static, while the notion of “geopolitical region” is dynamic, i.e. it cannot be considered outside the concrete historic context.

In our case, “the Black Sea-Caucasian region” (BCR) is a concept that belongs to the field of geography. It is used to denote the North-Western segment of the so-called “land of the five seas” (which includes the whole of the Near and Middle East). It is a unique corner of the planet in terms of culture and civilization and the meeting-point of the three great Abrahamic religions. The BCR is the most complex mosaic of diverse ethnic groups – a true miniature of the Eurasian world. All these traits were characteristic of the region during the times of the Soviet Union, when Moscow exercised control over most of the Black Sea-Caucasian zone. They remain characteristic of the area today, now that the Soviet Union no longer exists and the BCR includes six independent states, all of which directly border the Black Sea.

The Black Sea-Caucasus zone only became a geopolitical region very recently – after the fall of the USSR and the subsequent dissolution of its enormous sphere of influence. Under the conditions of the post-bipolar world, the Black Sea basin and the South Caucasus began to acquire the traits of a special subsystem within the system of international relations – the area as a whole began to take on the character of an identifiable geopolitical region. This is why, in geopolitical terms, the number of “local” actors is so large, including Armenia and Azerbaijan as well as practically all the Balkan states, all of which are involved in the affairs of the region in one way or another. This group of states is almost identical with the members of the Organization of the Black Sea Economic Co-operation (BSEC).

The BCR is still in the process of being re-established as a geopolitical entity. One of the distinguishing features of this region is the lack of a single

pan-regional “security complex”,<sup>1</sup> in particular, there is no regional organization similar to the OSCE. Moreover, no security discourse even emerged in the BCR, as it did, for example, in the case of the Balkans, where the Balkan Security Pact was adopted in 1999. This means, first of all, that there is no discourse in the expert community and at the level of politically influential organizations in the BCR. However, it is the task of such experts and organizations to create an institutional framework for discussions, to formulate their own understanding of the problems of regional development, to work out a common language for debates and, on this basis, to develop concrete approaches to solve these problems. The end result of this work would be the elaboration of a security pact for the BCR. To be fair, it should be mentioned that since 1999 this question – in respect of the Caucasus – has been raised in the South Caucasus, in the EU, and in Russia. The idea of such a pact has received support in the European Parliament.<sup>2</sup> Finally, it should not be forgotten that in January 2000, Süleyman Demirel, the Turkish President, also made a similar proposal. This proposal, however, has not resulted in any concrete action.

When we speak about a security complex, what we mean is a special regulatory mechanism. This regulatory mechanism is characterized by a quality of interstate interactions within a specific zone of the world (thus it is important that the states belong to single geographic zone), when the conditions conducive to the emergence of dissension, disputes, and conflicts between the states are reduced to the achievable minimum. At the same time, the complex provides a framework within which a sophisticated, efficient, and effective system of procedures, instruments, and mechanisms for managing crisis and conflict situations exists. This is based on a system of monitoring that uses a scale applicable to situations in all countries of the region, “tied” with one organizational and conceptual “knot”.

As global practice demonstrates, the direct way to create such a security complex is to develop confidence-building measures for the states in question and to establish co-operation between them in a range of areas.

In our case, such a security complex could use the matrix of the BSEC – an international economic organization with general tasks, created in 1992 on the initiative of Turkey – and the Danube Commission – an organization with specific tasks – and could also maybe take into account the infrastructure of the International Black Sea Club. The circle of participants could thus extend beyond the Black Sea region and the South Caucasus. One more condition is obligatory – the inclusion of the EU. The EU is interested in maintaining

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1 The concept of a “security complex” is defined by Barry Buzan as “a group of states whose primary security concerns link together sufficiently closely that their national securities cannot realistically be considered apart from one another”, Barry Buzan, *People, States and Fear*, London 1991, p. 90.

2 For more details see: Bruno Coppieters/Michael Emerson/Michel Huysseune/Tamara Kovziridze/Gergana Noutcheva/Nathalie Tocci/Mius Vahl (eds), *Europeanization and conflict resolution: case studies from the European periphery*, Ghent 2004.

peace and stability on its Eastern periphery, and following this objective, it has been lately actively pursuing what it calls its “European Neighbourhood Policy.”

The simplest way to provide security in the region is to “interweave” its states in a system of bilateral agreements and treaties. To bring this about, a network of diplomatic talks between the states of the Black Sea region and the South Caucasus should be developed. The aim should be to achieve a level of relations similar to that currently enjoyed by Russia and Turkey, for example, as illustrated by the Treaty on the Principles of Relations between the Republic of Turkey and the Russian Federation that was signed in May 1992. This establishes high-level political relations and underpins them with a strong economic foundation, such as strong trade links, the interests of Turkish business in the South of Russia, and the unique “Blue Stream” gas pipeline, which came on line in November 2005.

Following the break-up of the Soviet Union and the dissolution of its enormous sphere of influence, the reality is that several centres of power have emerged in the BCR that are capable of balancing each other and restraining the ambitions of any actor. If this situation – i.e. the absence of an obvious leader in the region and a state of mutual containment based more on political than military factors – remains in the near future, then it would be quite logical to create an institutional mechanism in the BCR for balancing the national interests of all the states involved in the process. Unfortunately, this has not yet taken place for several reasons, the discussion of which will make up the rest of this contribution.

1. *The lack of a common regional identity.* A common regional identity is essential for determining whether territorial units comprise an integrated territorial formation. This identity emerges, first of all, if there is a shared feeling among the population of a given area that they belong to a single territorial unit: Nations that inhabit a certain region are tied by bonds of an economic, social, and cultural character. They have a long experience of living together and a common historical destiny. They are clearly aware of the fact that this region is their homeland, what the Eurasianist theorist Pyotr Savitsky has called their “*mestorazvitie*” or place of development. Although the nations of the BCR belong to a single geographical region, share to some extent a common historical destiny, and, it appears, have an interest in developing economic, trade, and human relations, nonetheless, they do not form a common territorial space. This region is rather better represented as a complex mosaic in ethno-national, confessional, and linguistic terms. It is no coincidence that the region has always been characterized by a great dynamism (which was, naturally, not always positive). We should not forget that the

limitrophs<sup>3</sup> of three great former empires – the Ottoman, Austro-Hungarian, and Russian – are located here.

In this context, it is relevant to recall the following thesis of Samuel Huntington:

Regions are a basis for co-operation among states only to the extent that geography coincides with culture. Divorced from culture, propinquity does not yield commonality and may foster just the reverse. Military alliances and economic associations require co-operation among their members, co-operation depends on trust, and trust most easily springs from common values and culture [...] By and large, single civilization organizations do more things and are more successful than multicivilizational organizations. This is true of both political and security organizations, on the one hand, and economic organizations, on the other.<sup>4</sup>

NATO's success is largely explained by the fact that it consists of states that share common values and a particular philosophy – that of the Euro-Atlantic world. It is thus cultural commonality, in particular, that leads to the economic integration of contiguous states and thence to the creation of a regional security complex. But geographic proximity does not guarantee this. In our case, therefore, the common BCR identity has still to be built, and it is not clear who will take care of this and how.

This is why we think that some authors are rushing to present that which they desire as already extant when they state that the current processes in the BCR are a prelude to the formation of not only a geo-economic, but also a geopolitical space. For example, not so long ago, the Russian researcher Nikolay Kovalsky stated that:

The processes that are playing out throughout this zone have much in common. The differences between certain parts of this macro-region are being smoothed out, and interrelationships between them are increasing, forming an enormous integrated space. In the distant past, this commonality generally had a geological and geographical character, but in reference to the present, the similarities are increasingly based on geopolitical, military-strategic, economic, environmental, and other indicators.<sup>5</sup>

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3 In geopolitics, this concept usually refers to the unstable peripheries of imperial systems or “civilizational platforms”. For more information see, for example: Vadim Tsymburski, Geopolitics for the “Eurasian Atlantis”, in: *Pro et Contra*, 4/1999.

4 Samuel P. Huntington, *The Clash of Civilizations*, New York 1996, pp. 130-131.

5 Nikolay Kovalsky, *Restrukturizatsiya geopoliticheskogo prostranstva ot Gibraltara do Kaspiya v 90-e godi* [The Restructuring of the Geopolitical Space from Gibraltar to the Caspian in the 1990s], in: *Evropa i Rossiya: problemi yuzhnogo napravleniya. Sredizemnomorye-Chernomorye-Kaspiy* [Europe and Russia: Problems in the South. The Mediterranean, Black Sea, and Caspian Regions], Moscow 1999, pp. 20-21.

It is only possible to agree with the author's final statement with a high degree of reservation, and the same applies to his other statements that the peoples living in this space are drawn together by "their historic memory, which has captured much of what they have experienced together throughout their whole history of existence", and that the geopolitical unity of different segments of the BCR "began to form already during the times of Ancient Greece and Rome".<sup>6</sup> Should we take such "arguments from history" seriously? Probably not.

2. *Lack of co-operation.* International co-operation is defined as a process of interaction among several actors within the system of international relations during which the use of military force is excluded and political activities are co-ordinated, and all sides tend to search together for ways to realize their common (coinciding) interests. The second reason for the lack of a common security system in the BCR is that, according to this definition, the region is not a zone of co-operation. The co-operation of states on a regional scale requires the fulfilment of the following conditions, among others: a) reciprocity (the states expect to receive obvious benefits from their co-operation and fear that which they would lose if they ceased to co-operate); b) iteration (co-operation takes the form of acts repeated over a longer period of time, which develop into deep interregional ties); c) optimal number of members (the fewer the number of actors, the better the prospects of this co-operation succeeding); d) power asymmetry (interstate co-operation is more likely to occur, and to last, if a strong state is interested in it, or if a certain "condominium" emerges, as in the Franco-German axis that drives the EU, or the Turkish-Russian relationship at the heart of the BSEC).

These conditions are not fulfilled in the BCR either. Even if interstate co-operation takes place, then it only does so in the sphere of "low politics". In this area, the BSEC has achieved the best results so far. However, the situation is far from idyllic. The euphoria of the first years after the creation of the BSEC was followed by a lull in interstate economic co-operation, though attempts have been made to revive the "Black Sea process" in recent years. The number of the participants in the BSEC has increased to twelve with the accession of Serbia, and Macedonia has applied to join. There has been serious discussion of the idea of creating "euroregions" in the BCR – a concept promoted by the European Union as the most effective form of interstate or transborder economic co-operation. Taking into account the increasing significance of the BCR in world affairs, European organizations see a possibility of creating something similar in this region, perhaps on the model of the existing Adriatic Euroregion. The supporters of euroregionalism would also like to use it to strengthen the institutions of democracy, and to provide

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6 Ibid.

stability and sustainable development in the young states of the Black Sea region and the South Caucasus.<sup>7</sup>

Nonetheless, the problems remain. The main difficulty is that there is no need for unity among the BSEC states. In fact, their economic systems are not mutually complementary, and they have not made the slightest progress towards specialization and the international division of labour. Moreover, for most of the states of the BCR region, mutual trade with “horizontal partners” does not make up a significant proportion of overall foreign trade (Turkey and Russia are probably the only exceptions here). The foreign trade of countries in the region is predominantly oriented towards partners outside the region, and towards European countries in particular. Naturally, on this economic base, it is difficult to speak of building an architecture of interstate co-operation in the sphere of “high” politics. There is not a trace of this kind of co-operation in the region. The foreign policy vectors of local actors, which are used for the realization of their interests, are directed mostly outward rather than within the region.

There is one further reason why the interests of the states in the BCR do not coincide on their regional ground. It can be explained in terms of the “general laws of geopolitics”. One of the axioms of this discipline states that when a large state is surrounded by states that are small, weak, and/or artificially created and weakly integrated, the relations between these actors can develop according to two models. Either the powerful state conquers its weaker neighbours, enslaves them, and rules over them (at least for a while), or these states put up resistance. In the second case, the small states aim to unite their efforts and – with support from outside – to contain and sap the strength of their more powerful neighbour. The fear of being enslaved induces the weak states to create a containing barrier and to seek outside patronage. This patronage, however, is not provided by the local hegemon (a leading state in the region), but by an outside actor – a great power. The participation in this model of this kind of external actor leads to the emergence of a special (vertically organized) type of interstate relationship, which has the “patron-client” form. At the same time, the relations of local actors are based on a model of “independence” from the powerful neighbour that used to dominate the region, and “dependence” on the strong state outside the region. In other words, the foreign policy orientation of local actors begins to turn away from the region.

This axiom of geopolitics can be applied to the contemporary situation in the BCR. After the dissolution of the Soviet Union and the *Pax Sovietica*, the geopolitical relief of that zone called “Rimland” by Nicholas Spykman in

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7 Not so long ago, on 30 March 2006, an international conference on “Inter-regional co-operation in the Black Sea Basin” took place in the Romanian city of Constanta. It was organized by the Congress of Local and Regional Authorities of the Council of Europe in co-operation with the Ministry of Foreign Affairs of Romania. The conference evoked a wide response in the states of the BCR and generated lively debates in the expert community.

his classical work on geopolitics and “tidal lands” by the French researcher Jean Gottman, became visible once again. As a matter of fact, the “Great Limitroph”, which stretches from the Baltic to the Caspian region, with the BCR as one of its important parts, has again re-emerged between the two “grand geopolitical formations” – the weakened, territorially diminished, but still enormous Russia, on the one hand, and unified Europe, on the other. In objective terms, this means for Russia that a new *cordon sanitaire*<sup>8</sup> is emerging on its western and southern peripheries, and Moscow cannot be happy about this.

3. *Interference of major powers.* In order to speak seriously about the conditions under which the creation of a regional security complex in the BCR could be realized (in addition to the fact that creation of a new supranational structure naturally requires a major effort on the part of all regional actors and careful work on political-legal aspects), one more requirement should be mentioned – the non-interference of major powers in regional affairs. Benevolent attention, advice, and aid are welcome, but interference and, particularly, actions directed against the undertaking should be excluded. Under the current conditions, however, taking the international situation and the increased importance of the BCR into consideration, this is fundamentally impossible. This is the third hurdle to the creation of a security complex in the BCR. It seems unlikely that great powers or the US superpower would want to see the BCR as a unified and well-integrated space and a real centre of power, because, in this case the region (institutionally established as a “security complex”) would exert significant influence on the whole system of interstate relations and, to some extent, even on the conduct of the global centres of power. This would contradict the interests of both the great powers and the transnational corporations and large financial structures of the contemporary West.

Let us not forget that in the BCR today there is much to be divided up, and many claims to be staked. In addition to the division of the “Soviet inheritance” – consisting mostly of economic and military infrastructures – there are at least five main unresolved geo-economic and geopolitical issues

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8 Alexander Dugin, the Russian founder of contemporary Eurasianism theory, writes in this context: A “*cordon sanitaire*” is a territory of states and peoples located between two large geopolitical formations. The union of the states in the *cordon sanitaire* or their decision to act as one in the Geopolitical *Grossraum* could become a source of dangerous competition if allied with another great power (earlier this was the UK, today it is the USA). As a rule, the countries of the *cordon sanitaire* are a locus for conflicts between the two continental great powers, their geopolitical independence is therefore *de facto* impossible. They are therefore compelled to search for economic, political, and military support. The policy of a third large geopolitical power in this situation is to make out of the *cordon sanitaire* a zone of tension between the two local great powers, provoking the escalation of a conflict between them by using diplomatic influence on the governments of the ‘intervening’ countries. The most radical variant of the *cordon sanitaire* is a situation where one of the ‘intervening’ countries strives for complete independence from both continental neighbours, which in practice means that it will turn into a colony of the third (more distant) great power.” Alexander Dugin, *Osnovi geopolitiki* [The Foundations of Geopolitics], Moscow 2000, pp. 428-429.

in the BCR that are the subjects of “games”, “haggling”, and “manoeuvres” on the part of the external actors. These issues make the BCR an important segment of the world geopolitical space, they are:

- a) Control over the existing transport corridors along the West-East and North-South axes, and maintenance of their normal functioning to benefit the external players, as well as promotion of preferences in the realization of planned corridors;
- b) Unhindered access (via the Caucasus) to the oil and gas resources of the Caspian Sea and their development;
- c) Organization and maintenance of the uninterrupted transit of the hydrocarbons to Europe (and Asia), via a range of schemes;
- d) Definition of the international legal status of the Caspian Sea and creation of a regime that would enable the Caspian Sea to function as an integrated water-transport system; maintenance of normal functioning of sea and river systems: the Danube water-transport system, the Black Sea Straits, as well as resolution of the disputes around the Azov-Kerch Strait and questions concerning Russian and NATO military fleets in the Black Sea;
- e) Questions regarding the regulation of internal conflicts in the states of the Black Sea region and the Southern Caucasus with the participation of international mediators, and the problem of effective peacemaking in the region in general, as well as determining the fate of the unrecognized states (whether on the model of Kosovo or against it).

Above all, the situation in this geopolitical zone is today defined by the reorganization of the main directions of transport routes and the growing importance of energy in geopolitics. It is evident that the main developments in the near future will take place in the space between Western Europe and the Asia-Pacific region. This is why it is possible to state that the role of transcontinental communications and especially trade routes in Eurasia will increase. These used to be well-developed, but declined in the early modern period when the focus of global shipping moved from the Mediterranean to the Atlantic. This explains the increase in the significance of the BCR as a transit territory.<sup>9</sup>

The BCR has lately seen a growth in the activity of actors representing global centres of power. However, the region is not now being “overlaid” by all the great powers. Russia, which represented the grand political formation that included the bulk of what now makes up the BCR, used to have a mon-

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9 For more details, see: Guler Bilen Alkan/Asiman Bairam oglu Nabiev, *Otsenka transponikh linij Chernomorsko-Kaspijskogo basejna i regionalnaya transportnaya politika Turtsii* [Evaluation of the transport lines of the Black and Caspian Seas Basin and Turkey's regional transport policy], Baku 2004.

opoly on this kind of power. But what do we mean by the “overlying” of the region?<sup>10</sup>

This is what occurs when the direct presence of outside powers in a region is strong enough to absolutely suppress the normal operation of security dynamics among local actors. Overlay is usually characterized by the large-scale deployment of the external power’s armed forces in the region (although this is not an indispensable condition), which is followed by economic and ideological penetration. It differs from ordinary interference in regional security affairs by a strong power. Interference usually strengthens regional security dynamics. Overlay, on the contrary, places regional security dynamics in a position of dependence on a larger complex of great power rivalry; it may even completely destroy them. Thus, overlay puts the whole system of interstate relations of regional actors in a wider – global – context. This situation has in fact been characteristic of the Caucasus from time immemorial. As the Russian political scientist Andrei Zubov notes “the Caucasus, that most complex of mosaics, could not but generate wars and civil strife. As a result, all the conflicting sides were subordinated to an external power that was interested in stability and which established order in the Caucasus and tried to maintain this order as much as it could.”<sup>11</sup> Over time, the identity of these “establishers” of the regional world order has changed, but their existence has been a constant. For almost two centuries, the Russian Empire acted in this role. It was succeeded by the USSR. At the same time, whenever the external power withdrew or lost interest in these “local” affairs (for whatever reason), there came the “times of troubles”, when chaos reigned in the Caucasus, and civil strife and local wars began. Is this not reminiscent of events in the Caucasus not so very long ago? Was not the emergence of a belt of instability in this geopolitical zone accompanied by the process of weakening of the former powerful “empire of the Kremlin”, and was not the emergence of the internal conflicts in the new independent states of the BCR the result of its sudden breakdown? We think the answer is obvious.

However, times change. New establishers of order have moved to the foreground. The question is, who today can actually afford the luxury – because it does not come cheap – of becoming an establisher of the order in this very complex segment of geopolitical space? It is obvious that only the USA or a combined power – the USA plus NATO, or NATO alone (although there

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10 This term is mostly used by Western experts and researchers. In traditional Russian geopolitical research, the notion of “overlay” is practically unknown. Our interpretation of this concept is based on the work of Barry Buzan; cf. Barry Buzan, *People, States and Fear: An Agenda for International Security Studies in the Post-Cold War Era*, Hertfordshire 1991.

11 Andrey Zubov, *Budushchee Rossii na Kavkaze v svete istoricheskogo opita* [The Future of Russia in the Caucasus in the Light of Historic Experience], in: *Sotsialno-politicheskaya situatsiya na Kavkaze: istoriya, sovremennost, perspektivi* [The Socio-Political Situation in the Caucasus: History, Current Affairs, Prospects], Moscow 2001, p. 17; cf. also p. 27.

is little difference) – can afford to overlay the BCR. At the same time, serious experts are aware that impediments caused by the following regional players make it difficult to undertake such an enterprise: a) Russia, which is getting stronger and gradually overcoming its systemic crisis; b) the EU, which looks with alarm at Washington’s extraordinary activities and has apprehensions regarding its own energy security; c) Iran, which is positioning itself as a strong regional power; d) China, which is increasingly penetrating (via Central Asia) into the Caspian Sea region and to the Persian Gulf; e) Islamic partisans (“partisan” in the sense defined by the German thinker Carl Schmitt),<sup>12</sup> who maintain their military-political activities in the Caucasus and the Middle East, as well as in Central Asia.

The USA and the North Atlantic Alliance continue to conduct an active policy in the Balkans, while Russia has practically left the region. The US long ago established its presence in the Caspian region (which was included in the sphere of vital US interests in 1997), and has in the meantime also established its presence in the South Caucasus. The US has also strategically consolidated its positions in Central Asia. Until recently, Washington had not been directly involved in the Black Sea region, but this has since changed. Since August 2004, using the “fight against international terrorism” as a cover for its actions, the United States has started a large scale redeployment of its armed forces in Europe and Asia, moving them closer and closer to the borders of Russia. For example, US military contingents are being moved from Germany to south-eastern Europe, and in the future probably also to the South Caucasus. As a result of agreements with Romania (December 2005) and Bulgaria (April 2006) to establish military bases on their territories, the US also has a direct outlet to the Black Sea basin.

It is obvious that Washington would like to proceed to a harder variant of domination in this strategically important zone. Russia is increasingly opposing this. Moscow seems to have overcome the crisis of its partial break-up (first Tatarstan, then Chechnya). After achieving financial stability and having positioned itself as an “energy superpower”, it has been focusing its policies in two directions simultaneously – at Europe (Germany) and Asia (China). Russia feels more and more comfortable in its “near abroad” and wider neighbourhood. This explains Moscow’s aspiration to restore its influence in the BCR. In which context it must be noted that, although this influ-

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12 “Islamic partisan” is a collective term for various kinds of extremist and terrorist organizations and groups in the Arab Muslim world. They are closed groups, with the following typical attributes: a) They act as initiators in the struggle with other actors; b) they act absolutely outside the legal (national as well as international) field; c) they are organized as a “spider’s web” and tend to create networks; d) together with their accomplices in Muslim countries, they conduct irregular military operations (including informational-psychological ops) against “Jews and crusaders” around the world. “Partisans” conduct asymmetrical military operations against the forces of the “Western World order” by delivering sudden pointed blows to their opponents. The logic that underlies these actions is the logic of total war.

ence has diminished during the last fifteen years, it has not disappeared completely.

NATO is active in all three areas: the Caspian region, the South Caucasus and – since the 2004 Istanbul Summit – directly in the Black Sea basin region. According to NATO officials, the Alliance’s policy in these areas complements the Mediterranean Dialogue. It is no coincidence that lately, as the US has been pushing Russia out of the Black Sea region (Transdnestria), it has also been stirring up the NATO ambitions of today’s Ukrainian elite, and has been highly active in Georgia, both militarily and politically in Georgia. In general, Brussels is paying more attention to the South Caucasus. Zbigniew Brzezinski has argued that “the stabilization of the Caucasus may become – as it should – increasingly also a NATO responsibility”.<sup>13</sup> Nevertheless, we consider it unlikely that a large and powerful actor such as the North Atlantic Alliance could “overlay” the region in practice. This is because it would be necessary for all the BCR states, including Russia, to change the format of their co-operation with the Alliance from the Partnership for Peace (or bilateral relations) to full and equal membership of NATO, and this is unrealistic.

4. *Centrifugal tendencies and heterogeneity.* There is one more important factor hindering the development of a “complex”. Recent events suggest a growing centrifugal tendency in the region. It is increasingly crossed by various axes of interaction (both of co-operation and confrontation). The region is being “stretched” by alliances, coalitions, and bloc-like structures. These are organized by the local actors, who are also engaging the great powers, and acting under their *de facto* political supervision. In other words, the BCR is becoming more and more geopolitically heterogeneous.

The following axes of interaction can be observed in the region: Relations between Turkey, Georgia, and Azerbaijan have the form of a partnership (Azerbaijan and Turkey are *de facto* allies). Close co-operation can also be observed between Ankara and Kiev (although Turkey, with the silent consent of Kiev, is active in the Crimea). Russia and Armenia can be considered allies, and their relations are duplicated by the participation of both states in the Collective Security Treaty Organization (CSTO). Relations between Russia and Ukraine have the character of a formal partnership, and Kiev is reluctant to take this relationship to a new level – and sometimes resorts to open Russophobia and anti-Russian acts or rhetoric, such as the violation of gas transit contracts, claims to the Black Sea Fleet, complaints of Russification in the South-East of Ukraine.

Recently, the USA has become more active in providing patronage to the region. In particular, Washington acts as patron to the states that effectively form the Ankara-Tbilisi-Baku axis. It is also interested in the development of GUAM (Georgia, Ukraine, Azerbaijan, and Moldova). It is evident

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13 Zbigniew Brzezinski, *The Choice: Global Domination or Global Leadership*, New York 2004, p. 100.

that this “consultative forum” (which has existed since 1997) has been revving its engines. GUAM’s originators did not hide their intention of creating an alternative to the “pro-Russian belt” of unrecognized republics in the Black Sea Region (Transdniestria) and the South Caucasus (Abkhazia, South Ossetia, Nagorno-Karabakh). Unofficially, these territories are sometimes referred to as the “CIS-2”.

A very interesting situation is taking shape in the BCR. On the one hand, Turkey, Romania, and Bulgaria are NATO members. Georgia and Azerbaijan have applied for membership. Kiev’s NATO ambitions, which have been stirred up by Brussels, are growing. Moldova’s political elite has similar ambitions, and they, together with the Ukrainian leadership, are imposing the blockade of Transdniestria, apparently fulfilling “orders” they received from abroad. On the other hand, there is Russia. Of course, Russia continues its work within the framework of the NATO-Russia Council (formerly the “format of twenty”), but it does not see this consultative mechanism as very useful.<sup>14</sup>

It should not be forgotten that Russia is the leading state in the CSTO, which, as already mentioned, includes Moscow’s strategic ally Armenia. This is a *de facto* Eurasian regional security system, or at least it is seen this way in Moscow, Minsk, and Astana. Moreover, Russia, Ukraine, Georgia, and Moldova are formally members of the CIS – an organization, which to be honest, is not very efficient. Moscow’s critics, and Georgia in particular, skillfully use this circumstance.

This practical confrontation is duplicated in the economic sphere in the rivalry between GUAM and EURASEC, the Eurasian Economic Community, a single market, headed by Russia, of which Armenia and, more recently, Uzbekistan are members. In this context, certain important developments are becoming obvious. EURASEC’s political weight and influence is growing. This is indicated by its recent absorption (in February 2006) of the Central Asian Co-operation Organization. Also recently, a high-level agreement has been reached to create a customs union between Russia, Belarus, and Kazakhstan. The door remains open for Ukraine.

These developments naturally alarm Washington, GUAM’s *de facto* “curator”. It is no coincidence that a new and clearly anti-Russian alliance – the Commonwealth of Democratic Choice (whose members include Lithuania, Poland, Ukraine, and Georgia) – decided to “help” GUAM. This organization has since been renamed the “Community of Democratic Choice”, and the number of participants has increased. Poland is increasingly showing its interest in acting as a “local patron of the Baltic-Black Sea Alliance”. The ambitions of the Polish leaders are stirred up by the possibility of strength-

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14 We can draw this conclusion from the last informal summit of the NATO-Russia Council, at the end of April 2006 in Sofia. The creation of joint Russian-NATO rapid reaction units to fight terrorism and the fulfilment of the condition of “operational compatibility” necessary for this co-operation have so far been nothing but talk.

ening their presence in the re-emerged “Great Limitroph”. The Kremlin, however, will hardly be satisfied with this prospect.

### *Concluding Remarks*

If we consider the necessity of true stabilization, democratization, and sustainable development of the states of the Black Sea region and South Caucasus to be an axiom, then the optimal development scenario would seem to be the following one: creation of a supranational institution at the level of “high politics” within the BCR, i.e. creation of an international security organization – a kind of mini-OSCE. This should be based on the strong foundation of the BSEC. Only this scenario would satisfy the real needs and expectations of the peoples that live in this unique part of the world, although the elites who represent these peoples in the sphere of international relations often have diametrically opposite views and interests. This would be a great opportunity to create a single geopolitical space in this part of Eurasia and to build a common “Black Sea-Caucasian home”.

The current reality, however, is different: Great powers and other global actors are “stretching” the BCR in directions that benefit them. Unfortunately, the region has not become a closely integrated segment of geopolitical space. A sophisticated system of bilateral and multilateral interactions between neighbouring states has not developed here. Instead, the region remains a “loose cluster”, where external actors position themselves as those who can establish order, but are largely unconcerned about the true interests of local states. At present, therefore, there are no good reasons to exclude the Black Sea-Caucasian segment from the “arch of instability” stretching from Kosovo to Xinjiang. In the near future at least, the situation in this zone will not change. A new belt of instability is in the process of being formed.



## Politico-Economic Conflicts in the Black Sea Region in the Post-Cold War Era

### *Introduction: Definitions and Objectives*

There are several definitions of the Black Sea region – broader and narrower in scope – and it is hard to find any degree of consensus. A narrow definition includes only the six littoral states of the basin (Bulgaria, Romania, Ukraine, Russia, Georgia, and Turkey), while the wider Black Sea region also encompasses Moldova, Armenia, and Azerbaijan. Furthermore, the region is part of the “wider Middle East” project and forms the Euro-Atlantic community’s “great Eastern frontier with the wider Middle East”.<sup>1</sup> In terms of practical cooperation, NATO still tends to treat the wider Black Sea area as part of a broader region that includes the Caspian Sea region and Central Asia. There are those who have advised NATO to separate the South Caucasus from Central Asia in order to create a specific Black Sea strategy. Some also consider that a broader definition of the region should include the eastern Balkans, the Black Sea littorals, the Caucasus, and the Caspian Sea region, due to the intricate network of military, commercial, and demographic interactions and numerous other interrelationships linking this entire region.<sup>2</sup> The Organization of the Black Sea Economic Cooperation (BSEC) also adheres to a broader definition of the Black Sea region, one that covers the twelve following states: Albania, Greece, Bulgaria, Romania, Serbia, Moldova, Ukraine, Russia, Georgia, Armenia, Azerbaijan, and Turkey. For the purpose of analysing politico-economic conflicts in the region, in this discussion we shall adopt a narrow definition of the region that excludes its connections with the Balkans, the South Caucasus, and Central Asia.

The geographical location that this contribution investigates was once the sphere of influence of the USSR. Economic issues in the region have therefore always been interwoven with political issues. Against this background, the CIS process developed by Russia may be considered an attempt to keep the ex-Soviet states together as much as possible. Russia has frequently used economic measures to achieve this, such as quotas imposed on export goods from ex-Soviet countries to Russia, the ban on Georgian wine, threatening to limit the number of workers from former Soviet republics in Russia, making it particularly difficult for citizens of ex-Soviet states to obtain visas, or limiting or cutting off gas supplies, as in the case of Ukraine.

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1 Ronald D. Asmus, *Developing a New Euro-Atlantic Strategy for the Black Sea Region*, Istanbul 2004, p. 2, at: [http://www.tesev.org.tr/etkinlik/ist\\_paper2.pdf](http://www.tesev.org.tr/etkinlik/ist_paper2.pdf).

2 Cf. Duygu Sezer, *The Black Sea Politics and Turkey*, in: Mustafa Aydın (ed.), *Turkey at the Threshold of the 21st Century*, Ankara 1998, p.70.

But the most effective measure Russia has used in the post-Cold War era is to block the transportation of hydrocarbon resources from landlocked Central Asian states to Western markets. If one thinks of the Caspian Sea region and Central Asia as a bottle, the neck of the bottle is quite clearly the South Caucasus – specifically the Azerbaijan-Georgian corridor – and this attracts the interest of major powers to the Black Sea region. As things currently stand, not only major international powers such as the EU, the USA, and NATO – in short, the Euro-Atlantic community – are involved in the game, but also regional powers such as Russia, Turkey, and Iran. The main objective of this contribution is to analyse the economic and political conflicts among the major powers over the South Caucasus.

Since the actions of the great powers in relation to oil in the Caucasus have been carefully investigated elsewhere, they are intentionally kept out of the scope of this contribution.<sup>3</sup>

### *The Early Euro-Atlantic Approach to the Black Sea Region*

In the years immediately following the collapse of the USSR, the USA was reluctant to play a role along Russia's southern periphery. This contrasts with the speed at which America sought a role in Ukraine and the Baltic states. The southern periphery, including the Central Asian republics and the South Caucasus, did not seem to fall within the confines of American interests, objectives, and expectations. In recent years, however, there have been signs of increasing American interest in the region, and the South Caucasus is now claimed to fall within the area of US national interests. There is, of course, a very direct link between this emerging vocal articulation of American interests in the South Caucasus and Central Asia and increasing awareness of the reserves of fossil fuels in the Caspian Sea region. The pronouncements of strong political and commercial interests made by the US, partly impressed on the US administration by the oil industry, have generated a negative response from Moscow, which argues that American interests in the South Caucasus would adversely affect Russian interests in the region.<sup>4</sup>

According to Ronald Asmus, four main factors can explain the past lack of Western interest:

First, in many ways the Black Sea region has been the Bermuda Triangle of Western strategic studies in recent decades. Lying at the cross-

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3 See, for example, Uwe Halbach, Oil and the Great Game in the Caucasus, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2004*, Baden-Baden 2005, pp. 275-285; Charles F. Doran, *Oil Politics is World Politics*, SAIS, John Hopkins University, at: <http://www.sais-jhu.edu/pubaffairs/publications/saisphere/winter05/doran.html>; S. Frederick Starr/Svante E. Cornell, *The Politics of Pipelines: Bringing Caspian Energy to Markets*, SAIS, John Hopkins University, at: <http://www.sais-jhu.edu/pubaffairs/publications/saisphere/winter05/starr-cornell.html>.

4 Cf. Sezer, cited above (Note 2).

roads of European, Eurasian, and Middle Eastern security spaces, it has been largely ignored by mainstream experts in each of these faculties. Geographically located at the edge of each region, the Black Sea has not been at the center of attention of any of them. When it came to Europe, our priority was with the arc of countries extending from the Baltic to the Balkan states. When it came to the former Soviet Union, we were focused on building a new cooperative relationship with Moscow. And apart from the Israeli-Arab conflict, the attention of western Middle Eastern policy usually ceased at Turkey's southern border.

Second, given the crowded agenda of the Euro-Atlantic community since the collapse of communism 15 years ago, there was little time or political energy left to address the Black Sea region. The task of anchoring and integrating Central and Eastern Europe, stopping the Balkan wars, and putting those countries back on a path towards European integration – and, finally, trying to establish a new and cooperative post-Cold War relationship with Moscow – were full-time preoccupations. If one looked at the list of priorities of an American Secretary of State or a European foreign minister in the 1990's, rightly or wrongly, the Black Sea rarely broke through into the top tier of concerns. The exception was, of course, Turkey, which fought a lonely political battle to get the West to pay more attention to the region. Almost by default, our considerable interest in the safe and stable flow of energy through the region ended up driving our policy – as opposed to some overarching vision of the place of these countries in the Euro-Atlantic community.

Third, at that time there was also little push from the region for a closer relationship with the West. No Lech Walesa or Vaclav Havel emerged in the 1990s to capture our attention or pound at our door. The countries of the region, different and with widely varying aspirations were preoccupied with their own problems and at times engaged in civil war and their own-armed conflicts. Any thought of joining the West in the foreseeable future seemed unrealistic or even utopian – in their eyes as well as ours. In the West, there is always a tendency to ignore or neglect problems for which one has no immediate answer or prospect for success [...]

Fourth, the Black Sea has been a kind of civilization black hole in the Western historical consciousness. We suffer not only from a lack of familiarity with the region, its people, its problems, its rich culture, and its contribution to the spread of Western civilization, but also from a kind of historical amnesia. For some, "Europe" meant Western Europe; for others, it extended to the Baltic Sea and the Black Sea – but in the case of the latter, only to its western and southern edges. For many in the West, Ukraine and the South Caucasus still seem far-away lands of which we knew little and, rightly or wrongly, care less. Others are still too afraid to even think about venturing into what Moscow today claims

to be its “near abroad” and natural sphere of influence if not domination – not realizing or recognizing the many of the deepest roots of what is now considered Western and European civilization can be traced back to the cultures and countries that lived on the Black Sea throughout history.

After largely ignoring the region for the past decade, however, the West is now starting to wake up to the growing importance of the wider Black Sea region and the need for a modern and updated strategy. Several factors are propelling both the United States and Europe to focus their attention on this region and to develop a new and more coherent strategic framework.<sup>5</sup>

As a consequence, an area that has heretofore been neglected by the Euro-Atlantic community is now starting to move from the periphery to the centre of Western attention.

### *The BSEC Experience*

In 1992, thanks to the power vacuum left by the collapse of the USSR and the lack of interest in the Black Sea region on the part of the Euro-Atlantic community, Turkey launched a regional co-operation initiative under the name of BSEC, which brought together the twelve countries of the wider Black Sea region.

Examining data provided by the World Bank reveals that the BSEC represents a surface area of 19 million square kilometres, a market of 336 million people and has a GDP of 1.3 trillion US dollars.<sup>6</sup> Of course, there are considerable differences among member states in terms of geographical location, surface area, population, GDP, growth rate, rate of inflation, GDP by sector, foreign trade, debts, and foreign direct investment.

At first, the BSEC attracted much interest on the part of both its member states and the international community. But the second half of the 1990s witnessed a loss of momentum. The factors that have been limiting the institutional effectiveness of the BSEC for a decade deserve careful investigation. These factors are as follows:<sup>7</sup>

Shortly after the collapse of the USSR, the countries in the Black Sea basin came together to develop a legal platform and regulatory instruments for regional co-operation and to focus on the implementation of regional

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5 Asmus, cited above (Note 1), p. 1.

6 Cf. World Bank, World Development Indicators Database, 2006, at: <http://devdata.worldbank.org>.

7 Cf. Ersan Bucutoğlu, BSEC's Caucasian Dimension: EU and UN Efforts for Peace and Stability in the Southern Caucasus, *The Second International Silk Road Symposium on Black Sea Economic Cooperation – past, present, future*, organized by the Georgian Ministry of Economy, the Georgian Academy of Sciences, and the International Black Sea University, Tbilisi, 6-7 May 2005.

projects. But the strategic importance of the region immediately attracted the attention of international players to the Black Sea basin. As can easily be confirmed, the route connecting the EU to Central Asia via the Black Sea, the South Caucasus, and the Caspian Sea (the east-west corridor), and the route connecting the Russian Federation to the Mediterranean, the Middle East, and the southern hemisphere via the Black Sea, Anatolia, the Turkish Straits, and the Suez Canal (the north-south corridor) intersect at the Black Sea basin. Unacknowledged conflicts among international players over the region are factors that prevent the BSEC from having a sound institutional structure and the capacity to act and to realize its objectives.

Since the collapse of the USSR, the former COMECON countries of Eastern Europe and the former Soviet republics have experienced a radical transformation process as they have ceased to be centrally planned economies and have implemented free market reforms.

To the transition economies, Greece – which was already a member of the EU – and Turkey appeared to be good examples to follow in the adoption of free market principles at the start of the transformation process. As the process continues, three different geographical concentrations have emerged: the countries in the “EU space”, such as Greece, Bulgaria, Romania, Albania, Serbia, and Montenegro; the countries in the middle, such as Turkey, Moldova, Ukraine, and the Russian Federation; and the countries in the South Caucasus (Georgia, Armenia, and Azerbaijan). The first group see their strategic future in an enlarged EU; Greece is already a member, Bulgaria and Romania will become members this decade, and Albania, Serbia, and Montenegro will almost certainly be integrated into the EU at some point, along with the rest of the Balkans. The second group of countries is at a crossroads. Turkey’s membership process has been ongoing since 1963, and it appears that it may run on for several decades more. Ukraine and Moldova are Westward-looking countries with a view to EU membership. The Russian Federation is careful to develop good relations with the EU, but its integration into the EU has not been on the agenda thus far. The position of the third group of countries is unique in the sense that the interests of international players mentioned earlier naturally intersect in this specific geographical location because of its strategic position. As far as any economic co-operation process around the Black Sea basin is concerned, the third group of countries is therefore the keystone of the BSEC and deserves careful analysis. If security and economy are closely related issues, and a process of economic co-operation and development can only develop successfully in a secure and stable environment, peace and stability in the South Caucasus are the *sine qua non* not only for the economic prosperity and development of the region itself, but also for the success of the BSEC initiative.

The BSEC area still suffers from several unresolved sub-regional conflicts – both “hot” and “frozen”. These concern the territorial integrity of four BSEC member states: the Russian Federation, Moldova, Georgia, and Azer-

baijan. The fact that the conflict parties are BSEC member states is the number one threat to a smoothly functioning BSEC.<sup>8</sup>

Most BSEC member states have economies in transition. During the transition process, however, the rule of law has not been successfully established. Underground economies, administrative corruption, state capture, and hidden influence are still the main characteristics of such economies.<sup>9</sup>

It seems safe to conclude that, although it was a very good idea ten years ago to set up a co-operation initiative to improve peace, stability, and economic prosperity in the Black Sea basin, as things stand, the BSEC can hardly be considered a success story. The international conditions that led to the creation of the BSEC have changed since 1992. Unless threats to the territorial integrity of some member states are removed, and the problems of transition economies, as outlined above, are solved, the BSEC will remain merely a dream of economic co-operation in the Black Sea basin.<sup>10</sup>

### *Politico-Economic Questions in the Black Sea Region*<sup>11</sup>

Following the end of the Cold War, one of the regions that emerged as a particular focus in terms of security was the Black Sea region. After functioning as a buffer between the Western and Soviet block for almost a century, it now faced a new set of multi-dimensional security questions. And since the start of the 21st century, in particular, security questions around the Black Sea have been placed on the international policy agenda.

There are several reasons for this:

The first concerns the hydrocarbon resources of the Caspian Sea and their transportation to the West. For entities such as the USA and the EU, which are highly dependent on the hydrocarbon resources of the Middle East, energy became a key security issue following the 11 September 2001 terrorist attacks on the USA. In this context, two points should be underlined: It is in the Euro-Atlantic community's interest to develop sound relations with the Caspian Sea countries – which are rich in hydrocarbon resources and offer a

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8 Cf. Joel S. Hellman/Geraint Jones/Daniel Kaufmann/Mark Schankermann, *Measuring Governance, Corruption, and State Capture: How Firms and Bureaucrats Shape the Business Environment in Transition Economies*, World Bank Policy Research Working Paper No. 2312, Washington, D.C., 2000.

9 Cf. Joel S. Hellman/Geraint Jones/Daniel Kaufmann/Mark Schankermann, *Seize the State, Seize the Day: State Capture, Corruption and Influence in Transition*, World Bank Policy Research Working Paper No. 2444, Washington, D.C., 2000.

10 Cf. Ersan Bocutoğlu, *The Lessons from Black Sea Economic Cooperation (BSEC) Experience and the Need for a New Approach to Security and Cooperation in the Black Sea Region*, *Conference on the Black Sea Region: Setting a Safe Course on Democracy and Development*, organized by the South Caucasus Institute of Regional Security, Der Standard, and Haus Wittgenstein Bulgarisches Kulturinstitut, Vienna, 27 November-1 December 2005.

11 Cf. Ersan Bocutoğlu/Gökhan Koçer, *The Black Sea Security: Is There a Role for BSEC?*, in: *Romanian Journal of International Studies*, Bucharest 2006.

partial alternative to the Middle East – and to contribute to their economic and political stability. In addition, since some of Russia's and Kazakhstan's oil will be transported via the Black Sea to the West alongside oil from the Caspian basin, the Black Sea is becoming more and more important as an energy corridor. It is thus important for the West to establish security in the Black Sea region to safeguard fuel transport routes and thereby stabilize petroleum prices.

The second reason why the Black Sea is on the international policy agenda is because of its geo-strategic importance as a crossroads of the trade and transport routes stretching from north to south and from east to west.

The third reason is the power vacuum that emerged in the Black Sea area and the South Caucasus, particularly after the end of the Cold War and the collapse of the Soviet Union. While the power vacuum created opportunities in the region for third parties, it also raised new security questions. Russia has tried to keep the countries of the region – over which it has not managed to maintain sovereignty – under control by manipulating events to create frozen conflicts and by becoming involved in their management. The conflicts in and around Nagorno-Karabakh, Abkhazia, South Ossetia, and Transnistria are good examples. Instability in the region has created security problems for the EU and NATO, which will become even more significant with the accession of Bulgaria and Romania to the former. The EU and the USA consider terrorist activities and trafficking in human beings, drugs, and weapons, which stem from instability in the region, to be threats to their national interests.

The fourth reason concerns EU enlargement. For the EU, the enlargement process means not only the accession of new members and geographical expansion, but also new borders, new neighbours, and new problems. With the accession of Bulgaria and Romania in 2007 and the potential for Turkish membership, the EU will become a Black Sea power. The EU has set up a European Neighbourhood Policy to help deal with the problems created by the enlargement process and to establish a common policy on its new neighbours – states such as Ukraine, Moldova, Azerbaijan, Armenia, and Georgia – which are becoming increasingly important.

There are many other problems that the EU will be unable to ignore when its borders increasingly lie on the Black Sea. They include securing energy routes, coastal protection, water resources management, radioactive waste management, applying EU standards to the security of oil transport vessels in the Black Sea, guarding the EU's borders, and tackling the massive migration pressures on the EU that may stem from instability and economic problems in Eastern Europe and the South Caucasus.

The EU wants to take part directly in projects it has funded in the Black Sea region to legitimize its demands. It therefore uses the arguments that some of the countries in the Black sea region are members of the EU, some are about to become full members, and others, such as those in the South

Caucasus, share Western values and are inclined to agree with the EU's view, even though they are not members of the Union. The EU also thinks that it may play a much more positive role – compared to the role of NATO – in the Black Sea region, which is a geographical part of Europe and shares European values. By the same token, the EU has criticized the techniques used by NATO in intervening in the region's problems, and has preferred to spread and strengthen democratic values as a means of contributing to the enhancement of security and stability.

The USA has declared that its interest in the Black Sea region is a part of its overall strategy to combat terrorism. It argues that terrorist activities and all kinds of trafficking originate from instability in that region, which thus poses a threat to the international community. More comprehensive measures and projects are therefore needed, because existing bilateral agreements and co-operation projects are rarely effective.

Although Turkey, Greece, Bulgaria, and Romania are members of NATO, Russia and Ukraine are strategic partners of the USA, and Azerbaijan, Armenia, Georgia, and Moldova are members of NATO's Partnership for Peace programme, the USA claims it has no initiative that focuses directly and exclusively on the Black Sea region. NATO should take steps to eliminate this lack.

In 1996, the Black Sea Naval Cooperation Task Group (BLACKSEAFOR) was set up on the initiative of Turkey to enhance security in the Black Sea. With the participation of the navies of Turkey, Bulgaria, Romania, Ukraine, Russia, and Georgia, BLACKSEAFOR, an unarmed military organization for search and rescue operations, has contributed to the security of Black Sea region. Nevertheless, the USA would like to see further-reaching measures, and therefore demands amendments to the Montreux Convention that would see it gain privileges in certain areas and which would ease the approval of free movement of the US Navy through the Turkish Straits. The US is looking to perform anti-terrorist operations in the Black Sea analogous to Operation Active Endeavor, NATO's effort to counter the terrorist threat in the Mediterranean following the terrorist attacks of 11 September 2001. BLACKSEAFOR could be integrated into these operations.<sup>12</sup>

The US points out that the EU is trying to gain support in the Black Sea region merely by declaring its intentions for the region without becoming actively involved. The US wants to take the initiative from the EU by emphasizing that NATO is more capable of actively engaging with the region's problems. The US has signalled that there is a conflict of interests and a rivalry between it and the EU by stressing that the EU member states have decreased the share of military expenditure in their budgets and have shown unwillingness to take part in US-led military operations. The USA also ar-

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12 According to reports of 9 May 2006, the US has stepped back concerning its insistence on extending Operation Active Endeavor to the Black Sea, as the necessary amendments to the Montreux Convention have the potential to strain relations among states in the region.

gues that the inclusion of Syria and Libya in the greater Europe project shows that the EU's enlargement vision is different from that of NATO and that the EU is taking a different route to enlargement from the Atlantic Alliance.

Arguing that the traditional strategy is ineffective, the US has placed considerable emphasis on the need for a more comprehensive, effective, and well-coordinated strategy for the Black Sea region. If it is to be able to support the reforms in the region, such a strategy should be formulated and put into effect by NATO, as only NATO is capable of intervening in global problems whenever necessary without regard for time and distance.

Nevertheless, NATO's interests overlap with those of the EU in the Black Sea region. If they act together, they should, in theory, realize their goals more easily. The new regimes in the region, however, are in a difficult position when it comes choosing between the EU and NATO, as they see the Euro-Atlantic community as a guarantor of their freedom.

There are two scenarios concerning the position and policies of Russia on the Black Sea region: one weak and the other strong. The weak scenario is predicated upon the EU and the US giving clear consent to the legitimate political, economic, and security interests of Russia in the Black Sea region. As a consequence, they would recognize that it is not wise to leave Russia out of the regional projects they have developed. In this scenario, they would be open to any kind of co-operation with Russia that may improve conditions in the region. Since terrorism and trafficking in human beings, drugs, and weapons also pose threats to Russia, co-operation between the EU, the USA, and Russia on counter-terrorism and anti-trafficking activities is likely to be particularly effective. Even more optimistically, one could envisage that the zero-sum game played by the USA and the USSR during the Cold War era may be replaced by a regime of close co-operation in the Black Sea region – a win-win situation.

From the point of view of the strong scenario, however, the weak scenario has many omissions. For Russia, the Black Sea is a gateway to the oceans and a natural shield against external threats. However, one reason why the US wants to increase its influence in the region is to control the transport and prices of the hydrocarbon resources that are Russia's main export items. Another is to support the democratization process in countries of the region and to help them free themselves from Russian hegemony. From this point of view, there is still a zero-sum game between the Euro-Atlantic community and Russia and US influence in the region appears to go against Russian interests. Thus while Colonel General Alexander Skvorzov of Russia has declared that Russia supports the struggle against terrorism, organized crime, and trafficking in human beings, drugs, and weapons in the Black Sea region, he has also thanked Turkey for its pre-eminent contribution to regional security and stability by defending the interests of the countries in the region according to the Montreux Convention. In addition, he has expressed his appreciation for BLACKSEAFOR as the second most important instrument in

Black Sea security, and has stated that Russia is opposed to any attempt to change the structure of Montreux and BLACKSEAFOR.

Ukraine, Romania, and Bulgaria are trying to take an active role in the Black Sea region. In the international system, these countries find themselves located between East and West, but they have stated their preference for the Western side. After gaining independence, Ukraine rose to become a powerful actor in the region thanks to the ex-Soviet military ports and fleet that it retained. It feels squeezed between the Euro-Atlantic community, in which it wants to participate, and Russia, on which it is dependent for energy. Romania is also entering into bilateral agreements with the aim of increasing its role in the region. The proposed Constanta-Trieste pipeline, in particular, appears to be a good opportunity to transport Caspian hydrocarbon resources to Western outlets. Although Bulgaria also supports the Euro-Atlantic community's position on the Black Sea region, it appears more hesitant than Romania. Greece, the only EU member state with a Black Sea coastline, is happy to have been the voice of the Union in the region.

In this context, it is worth mentioning the situation in the South Caucasus. The removal of Soviet hegemony over the South Caucasus created an opportunity for the South Caucasus countries to express themselves as independent entities. They are trying to strengthen their independence from Russia by improving their relations with the EU and the USA. It can be argued that the Euro-Atlantic community manages to keep them on their side by holding out the possibility of future EU and NATO membership, which is seen as a carrot-and-stick strategy in certain circles.

After the demise of the USSR, Turkey assumed important responsibilities for security in the Black Sea region, making use of its control of the Turkish Straits and its powerful navy, among other things. Nevertheless, Turkey's stance is not considered in this discussion of Black Sea security, for Turkey, as a member of NATO and an EU candidate country, is expected to support the Euro-Atlantic community's approach to regional issues.

### *Conclusions and Proposals*

Without a consensus on the definition of the Black Sea region, it seems convenient to adopt a wider definition of the Black Sea for the purpose of analysing the economic conflicts in the region. Otherwise, it is hard to understand why the economic and political situation in the region is about to escalate into a second Cold War.

For various reasons, the Euro-Atlantic community did not pay much attention to the Black Sea region for at least a decade after the fall of the Soviet Union. The power vacuum thereby created and the lack of attention paid to the region by the Western world during this period enabled Turkey to start the BSEC initiative for regional co-operation. The increasing international

interest in the region because of its strategic importance in hydrocarbon transportation, the choices being made by regional states concerning their political future, “hot” and “frozen” conflicts in the region, and the long-term transition process: All have prevented the BSEC from functioning smoothly. Although the BSEC has a role to play in regional security, it has failed to establish momentum for economic co-operation in the Black Sea basin.

The Black Sea region’s increasing importance as an east-west hydrocarbon transport corridor, and its new position in the Greater Middle East project mean that the USA and NATO have recently started to pay more attention. After nearly a decade of displaying virtually no interest, the EU and the USA now consider terrorist activities and trafficking in human beings, drugs, and weapons – which stem from instability in the region – as threats to their national interests. Mistrust and rivalry that have been developing between the Euro-Atlantic community and Russia over the future of the region may have the potential to escalate into a second Cold War.

There are considerable differences between EU and US approaches to the region. NATO and the USA are becoming increasingly involved in the Caucasus. Consequently, Americans see the EU as “the great absentee”.<sup>13</sup> The EU had produced no binding strategy document on the region until recently. At present, it is searching for opportunities to be more active. In any case, it has become clear that the need for a sound and consistent Euro-Atlantic strategy for the Black Sea region, prepared collectively by the USA, EU, and NATO, is beyond question.

The politico-economic conflicts in the Black Sea region in the post-Cold War era have mainly centred around the transportation of Caspian hydrocarbon resources to Western markets on a route without direct Russian control. If this is achieved, Central Asia will be connected via the South Caucasus – i.e. through Azerbaijan and Georgia – with the Euro-Atlantic world. Since the economic conflicts in the Black Sea region between Russia and the Euro-Atlantic community have political consequences, economics and international politics have here become inseparable. The fundamental question is whether or not an opportunity can be created to balance the interests of the conflicting sides in the foreseeable future.

It is obvious that it will take time to reconcile the conflicting interests of major international and regional powers in the region; and that more sweat and ink – but hopefully no blood – will be poured out for this purpose.

In the short term, there are roles for civil initiatives to play in each Black Sea country in strengthening democratic and economic institution-building processes. The institution-building process is a task that cannot be achieved by the state alone. Since the *nomenklatura* itself needs to undergo a mental transformation for this purpose, civil initiatives should take on a role here.

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13 Vladimir Socor, *Nato Prospects in the South Caucasus*, IASPS Policy Briefings: Geostrategic Perspectives on Eurasia 61/2004, cited in: Halbach, cited above (Note 3), p. 283.



II.  
Responsibilities, Instruments, Mechanisms,  
and Procedures



## Conflict Prevention and Dispute Settlement



## Macedonia and Its OSCE Mission 2004-2006: Between Ohrid and Accession<sup>1</sup>

The seventeenth of December 2005 will go down as one more significant date in Macedonia's short history as an independent state. On this day, the European Council of EU Heads of State and Government endorsed the European Commission's recommendation, which had been made in November, that Macedonia be granted candidate status for accession to the EU. The Commission's recommendation described Macedonia as having "stable democratic institutions which function properly, respecting the limits of their competences and co-operating with each other".<sup>2</sup> The governing coalition of SDSM, LDP, DUI, and several parties representing the smaller minorities<sup>3</sup> saw this as an acknowledgement of their reform efforts and announced that EU accession negotiations would begin in 2007.<sup>4</sup>

Macedonia had already submitted its application for EU membership in March 2004 and had completed the Commission's comprehensive questionnaire on how it would uphold the *acquis communautaire* by January 2005.<sup>5</sup>

Since the 2001 conflict, the country has developed rapidly, undergoing far-reaching transformations. The bulk of this process is based upon the Ohrid Framework Agreement of August 2001, which was negotiated with the mediation of the EU and the US and helped to end the conflict. The provisions of the Framework Agreement, translated into changes to constitutional and statute law, had all been implemented by the summer of 2005. The granting of official EU candidacy status hence coincided with the completion of the process of implementing the Ohrid Agreement – a process that had radically transformed the country in the previous four years.

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- 1 The opinions expressed in this contribution are entirely those of the author and do not represent the positions of the OSCE, the government of any participating State or the Mission.
  - 2 Commission of the European Communities, *Communication from the Commission, Commission Opinion on the application from the former Yugoslav Republic of Macedonia for membership of the European Union*, COM (2005) 562, Brussels, 9 November 2005, at: [http://ec.europa.eu/comm/enlargement/report\\_2005/pdf/package\\_v/com\\_562\\_final\\_en\\_opinion\\_fyrom.pdf](http://ec.europa.eu/comm/enlargement/report_2005/pdf/package_v/com_562_final_en_opinion_fyrom.pdf).
  - 3 The coalition that held power from 2002 until July 2006 consisted of the Social Democratic Union of Macedonia (SDSM), the Liberal Democratic Party (LDP), the ethnically Albanian Democratic Union for Integration (DUI), the Democratic Party of Turks (TDP), the Democratic Party of Serbs in Macedonia (DPSM), the Democratic League of Bosniaks (DLB), and the United Party of Roma in Macedonia (UPRM).
  - 4 Over 95 per cent of the population are in favour of rapid accession.
  - 5 In April 2001, Macedonia became the first country in the Balkans to sign a Stabilization and Association Agreement with the EU.

One of the key provisions of the agreement, the decentralization process officially began in July 2005 with the transfer of wide-ranging competencies in areas including health, social issues, education, local economic development, and culture from central to local control. Local government was thus granted power in the above fields before it is granted financial autonomy, following a two-year probationary period, in July 2007. However, before this could happen, many obstacles needed to be overcome. A precondition for decentralization according to the Ohrid Agreement was a redrawing of administrative boundaries. However, the agreement contained no details of the criteria by which the boundaries were to be redrawn, which made a lengthy and contentious negotiating process inevitable. A normally rather bureaucratic process turned, as so often in Macedonia, into a political issue. In 2004, after sometimes heated discussions, the SDSM and DUI coalition partners agreed on a compromise,<sup>6</sup> which many saw as a purely political solution. The critics' main argument was that the proposed solution only took account of the interests of the governing parties, treating objective criteria for the redistribution of territory as secondary matters. In fact, a large proportion of the ethnic Macedonian population, as well as many small minorities, such as Turks, Serbs and Bosniaks, felt that their interests had been sacrificed in favour of the Albanian population, in particular. As a result, the referendum against the territorial reorganization that was the brainchild of a Macedonian diaspora organization, the World Macedonian Congress, received the broad support of the Macedonian population. The necessary number of signatures was assembled very quickly. The country was split into two camps: While the governing parties defended the new arrangements and called for a boycott of the referendum, they were opposed by a broad coalition of those who supported the referendum, which gained the support of virtually all Macedonia's opposition parties, as well as prominent members of civil society and artists. This alliance even overcame serious splits within the largest opposition party, the VMRO-DPMNE<sup>7</sup>. This is discussed in more detail below.

As well as this political split within the ethnic Macedonian population, the planned referendum also revealed how unstable inter-ethnic relations were just three years after the conflict. The majority of Albanians believed that a successful referendum would illegitimately deprive them of the gains they had made in the Ohrid Agreement, while the deep fears long entertained by Macedonians of an ethnically divided country or even of the breakaway of the regions with an Albanian majority were given new life.

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6 The compromise planned to reduce the number of municipalities from 124 to 84. The DUI had originally demanded a reduction to 34, which is how many there had been before 1996.

7 Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity.

Precisely these fears were reinforced shortly before the referendum, when an armed Albanian group occupied Kondovo, a suburb of Skopje, announcing that they were willing to use armed force to defend the right of the Albanian population if the referendum was passed.

When the referendum failed in November 2004,<sup>8</sup> the obscure political motives of the group, which consisted of former UÇK/NLA fighters and members of various criminal organizations, became obsolete, and it became apparent that the group was more interested in an amnesty for its criminal activities. With the help of Albanian parties and representatives of the international community, an agreement on the cessation of violence and the relief of the siege of Kondovo was finally agreed in December 2004. This agreement also contained a provision that the leaders of the group would initially face no charges. Later, however, the leaders of the group declared that they were prepared to go on trial after the authorities had guaranteed that proceedings would be fair.

The ultimate failure of the referendum also had political consequences:<sup>9</sup> the then Prime Minister, Hari Kostov,<sup>10</sup> who had assumed office after his predecessor, Branko Crvenkovski, was elected President in April 2004, stepped down. According to the official version, this was a result of insurmountable differences of opinion with his Albanian coalition partner, the DUI. He was replaced by the newly installed SDSM leader, Defence Minister Vlado Bučkovski. At a long-postponed party conference, Bučkovski had won out over internal rivals such as Deputy Prime Minister Radmila Šekerinska and the co-founder of the party, Tito Petkovski. After eight months without a leader, the feeling had grown in the SDSM that it was time to tend more closely to the concerns of Macedonian voters and to take the blame for excessive concessions made to Albanian interests. To do this would require a strong prime minister who had the support of the party. At the same time, however, the election of Bučkovski as SDSM chairman intensified divisions within the party, as is discussed below.

The adoption of the Law on the Use of Flags and Symbols of Ethnic Communities in July 2005 marked the completion of the process of implementing the legislative changes arising from the Ohrid Agreement. The law granted national minorities in Macedonia the right to use symbols and flags that they consider to represent their group. Turks are thus permitted to fly the Turkish national flag and Albanians to display the double-headed eagle on a red background, the national flag of Albania. The use of the Albanian flag, in

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8 The referendum failed, as fewer than the required 50 per cent of the electorate participated.

9 The fact that the USA recognized Macedonia under the name that was used in the constitution, "Republic of Macedonia", thus going against the internationally agreed designation of "former Yugoslav Republic of Macedonia" only a few days before the referendum, is seen by many as one of the main reasons for the referendum's failure; another was the considerable pressure brought by the government on the electorate to boycott the referendum.

10 Hari Kostov is officially unaffiliated to any party, but is close to the SDSM.

particular, had been a cause of conflict in the past, for instance, in Tetovo and Gostivar in 1997.<sup>11</sup> As well as the legal regulations relating to the use of ethnic symbols, the Albanian side had also demanded comprehensive legislative reform in relation to the use of the Albanian language at the national level. However, here the gulf between the governing parties was too wide to bridge and the international community, which had played a mediating role in all areas of the implementation of the Ohrid Agreement up to then, agreed that such a far-reaching reform was not in the spirit of the agreement and that the use of minority languages was already sufficiently covered by existing law.

### *The Problem of Democratic Elections – Victory at Any Price*

The local elections that had originally been set for the autumn of 2004 had to be postponed until spring 2005 owing to the referendum and the delay in implementing the redrawing of administrative boundaries. Despite assurances from political leaders to the contrary, the – now almost traditional – irregularities appeared, as documented in the final report of the OSCE's Office for Democratic Institutions and Human Rights (ODIHR).<sup>12</sup>

In general, the individual ballots complied with the OSCE's criteria for free and democratic elections. Nevertheless, a range of obvious and grave irregularities were observed, once more in the districts well known for such problems: Party activists stuffed ballot boxes – sometimes under the eyes of local and international observers – or openly threatened voters or electoral officials at gunpoint, individuals voted on behalf of family members or absent neighbours, ballot papers were stolen or intentionally spoiled, signatures on electoral lists were forged, and women were stopped from voting, to name just some examples. In many places, verbal confrontations between party activists led to physical violence.

In the run-up to the elections, the EU, in particular, had pushed for a well-regulated process in line with international standards that would prove that Macedonia was ready to join the EU. For the most part, these calls were ignored.

In the ethnic Albanian camp, the result of the election was a large-scale redistribution of power towards the governing DUI. In all but two municipalities, they now provided the mayors and municipal council majorities in all the districts with an ethnic Albanian majority population.

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11 In July 1997, a police operation against the use of the Albanian national flag – forbidden at the time – by the mayors of Tetovo and Gostivar, Alajdin Demiri and Ruzi Osmani, left two people dead and 25 injured.

12 OSCE Office for Democratic Institutions and Human Rights, *Former Yugoslav Republic of Macedonia, Municipal Elections, 13 and 27 March, and 10 April 2005, OSCE/ODIHR Election Observation Mission Final Report*, Warsaw, 8 June 2005, at: [http://www.osce.org/documents/odihr/2005/06/15001\\_en.pdf](http://www.osce.org/documents/odihr/2005/06/15001_en.pdf).

The opposition Democratic Party of Albanians (DPA), which had provided the majority of mayors since 2000, found itself facing a far stronger DUI, as it already had in the parliamentary elections of 2002. Facing defeat, the DPA boycotted the run-off ballot, claiming this was motivated by concern for party members, who were at the mercy of the aggression of DUI activists. Although the phenomenon of clashes between supporters of the two parties was real, the threat of defeat appeared to be the real reason for the DPA candidates' withdrawal. Following the critical assessment of the first round of elections by the ODIHR election observation mission, claiming to be the victims of the opposition's aggression presented a face-saving way out.

Within the Macedonian camp, the two largest political groupings exchanged control of their former strongholds. Whereas the SDSM had previously provided the mayors of all Macedonia's larger cities and the VMRO-DPMNE had ruled in rural areas, this was now reversed. The power shift was most obvious in the capital, Skopje, where the candidate of the governing coalition and incumbent mayor, the Liberal Democrat Risto Penov, stood against the businessman and parliamentarian Trifun Kostovski. Kostovski originally entered parliament in 2002 on the list of the SDSM coalition. However, during the debate over the redrawing of administrative boundaries, he increasingly distanced himself from the official government line and came out in support of the referendum. Finally, he registered as an independent candidate for the Skopje mayoral election, thereby breaking definitively from the SDSM. Because of his popularity and reputation as a successful businessman who had made a considerable fortune in the few years since independence, establishing an image as the patron of several civil society initiatives in the process, he was, from the start, considered the candidate most likely to win. His prospects of victory were raised even higher when he received the support of a broad coalition of opposition parties that had formed to support the referendum. Kostovski won in the second ballot. He had held an unassailable lead in the first round, but the opposition refused to acknowledge his victory. Both rounds of voting were also marred by irregularities.

The ruling SDSM lost its lead in most of the large urban municipalities to the opposition and was only able to take advantage of the split between the VMRO-DPMNE and the VMRO-People's Party (VMRO-NP) in rural areas in the east of the country. Overall, however, the SDSM and its DUI partner won a majority of mayoral contests and thus declared itself the winner.

In the end, the two VMRO factions won almost the same number of votes, although the electoral system meant that the VMRO-DPMNE won more mayoral offices than the VMRO-NP.

The first reaction of virtually all parties focused on the results and not the means by which they were achieved. There was therefore great astonishment when ODIHR's and the Council of Europe's election monitoring mission announced that the elections generally complied with democratic standards, despite significant irregularities.

It took several weeks and considerable international criticism for the government to declare, in the summer of 2005, that it was prepared to undertake electoral law reform on the basis of the recommendations made by ODIHR. Given that the European Commission was soon to make its assessment of Macedonia's readiness to join the EU, the authorities could not ignore the criticism and needed to show initiative. The OSCE Mission to Skopje grasped this initiative and observed the reform process in an advisory capacity until the adoption of a unified electoral code in the spring of 2006.

*The Party Landscape – Fragmentation on the One Side, Consolidation on the Other*

The Macedonian party landscape, which had been split into two large blocks since independence, underwent major changes in the aftermath of the 2004 presidential elections. While the dominant position of the governing DUI was increasingly consolidated on the Albanian side, the two large Macedonian parties underwent internal splits.<sup>13</sup>

Not quite a year after the former Prime Minister Ljubco Georgievski had relinquished the leadership of the VMRO-DPMNE in favour of his then deputy, Nikola Gruevski, a disagreement over the party's presidential candidate led a wing of the party to split off. After several failed attempts to remove Gruevski from power, Georgievski founded the VMRO-NP. Making use of the new law that allowed them to freely choose their party, the majority of VMRO-DPMNE MPs shifted allegiance to the new party. The two parties then began a lively struggle over which would be the most important opposition party. Although the VMRO-DPMNE had only half as many MPs, it was still the opposition party with the largest membership. As a result of this internal power struggle, the opposition was mainly preoccupied with its own affairs and unable to fully play its role of challenging the government.

A few months before the founding of the VMRO-NP, Gruevski had already expelled two former VMRO-DPMNE Vice Presidents and Ministers, Marjan Gjorcev and Dosta Dimovska, from the party as a consequence of internal quarrels. Each of them later founded his own party. Gruevski effected a major reshuffle of personnel within the VMRO-DPMNE.

The governing coalition profited for a long time from the weakness of the opposition, which allowed the largest governing party, the SDSM, to wait eight months before appointing a new chairman, after the former party leader and Prime Minister, Branko Crvenkovski, had been appointed President. The internal power struggle over Crvenkovski's succession also left its mark on the SDSM. His defeat in the party leadership election and the disputes over the redrawing of administrative boundaries ultimately led the former parlia-

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13 Since the decision of the Constitutional Court of 22 December 2004, parliamentarians no longer lose their seat on changing parties.

mentary speaker and SDSM co-founder, Tito Petkovski, to leave the party in the late summer of 2005 and found the New Social Democratic Party (NSDP). In explaining his decision, he stated that he could no longer support the official party line.

The smaller coalition partner, the Liberal Democrats, also suffered the loss of a key member. The former deputy speaker, Liljana Popovska, had fallen into disfavour within the party, as a result of her vehement and outspoken support for the referendum against the territorial reorganization, which placed her in conflict with the official party line. In the summer of 2005, she also left the party and founded her own Party for the Democratic Reconstruction of Macedonia (DOM). DOM's manifesto targeted the liberal middle classes in urban areas, as had the original programme of the LDP. Thanks to her prominent position in the Macedonian women's movement, Popovska was also able to gain the support of a number of representatives of the Union of Women's Organizations of Macedonia (UWOM) for her party.

In both of these cases, as with the splitting of the VMRO-DPMNE, the new party was founded to compete with its former parent party. Both the NSDP and the DOM made an effort to be seen as multi-ethnic parties by calling for all ethnic groups to work collectively for the economic and social progress of the country.

Some commentators on the political situation in Macedonia consider the splitting process as detailed above to be a democratic step on the road to greater pluralism, while others have argued that a fragmentation of the political scene would make the formation of stable governing coalitions more difficult. There is clearly something to be said for both arguments. However, in the 15 years since Macedonia became independent, there have been numerous splits and new parties founded without any noticeable weakening of the political system. At the same time, it is likely to remain the case that the only way to achieve the majority necessary to govern will be by means of a coalition of several parties.

After more than three years of existence, the ethnic Albanian DUI party, part of the governing coalition, held its first party conference in the autumn of 2005. There, Ali Ahmeti was confirmed as chairman by a nearly unanimous vote. The party had waited a long time to take this step, probably out of a fear of internal power struggles between the various wings. Although small differences of opinion remained, the DUI leadership nonetheless emerged from the party conference strengthened, having succeeded in balancing the interests of the party's factions. The new leadership consists of representatives of the various wings that had formerly commanded more loyalty than the party as a whole. Ali Ahmeti represents the diaspora faction, while his deputies, Teuta Arifi and Rafiz Haliti, represent the "political or intellectual wing" and the former UÇK/NLA commanders, respectively.

After failing to have the results of the local elections in Albanian municipalities annulled, the DUI's main competitor within the Albanian camp,

the DPA, withdrew from the parliament and, between May 2005 and January 2006, implemented a total boycott of all political institutions. While this earned the party criticism from across the board, it allowed the DPA, which had just lost two elections, to concentrate on internal consolidation, and it emerged from its nearly ten-month boycott of parliament stronger and invigorated with new personnel. In January 2006, Bardhyl Mahmuti, the former vice president of Hashim Thaci's Democratic Party of Kosovo (PDK), announced his desire to join the DPA with the aim of strengthening the party sufficiently by the summer of 2006 so that it would be capable of defeating the DUI, despite the latter's large lead in all opinion polls. The DPA did succeed in gaining strength by incorporating several smaller parties and individuals. Nevertheless, the DUI continued to enjoy a large lead in the polls thanks to its success in implementing the constitutional changes stemming from the Ohrid Framework Agreement. The DUI has certainly done more for the rights of the Albanian minority in Macedonia than any previous Albanian governing party. Furthermore, it had also understood the importance of integrating the "new" requirements of the Albanian population for economic prosperity and social security into its campaign, while the DPA continued to campaign in terms of the national interest.

*Priorities in the Work of the OSCE Mission – Targeted Support for Good Governance*

The work of the OSCE Mission continued within the areas laid down by the Ohrid Framework Agreement, although it was adapted in line with the changing situation in the country. In particular, rule of law and good governance in all its facets were expanded to become the main priorities of the Mission's work. In this area are included support for reform of the police and judiciary, the fight against organized crime, and electoral law reform, the establishment of an effective ombudsman institution, and decentralization. In general, the work of the Mission tended to shift from security-related activities to targeted support for the development of more democratic and efficient state structures in both central and local government.

It is precisely in the areas of judicial reform and the establishment of the ombudsman institution that some of the most noteworthy successes have been achieved. Amendments to the constitution and successive legal changes have created the conditions for the establishment of a more transparent, efficient, and independent judicial system. Targeted special training measures have also increased the proportion of minorities in the judiciary, thus moving a further step closer to fulfilling the requirements of the Ohrid Agreement. The establishment of regional ombudsman institutions was not only supported, the process was brought to a provisional conclusion, with the opening

of six regional offices in the autumn of 2005. The focus in this area will now be on capacity building.

In addition, the work performed by the Mission in collaboration with international partners encompasses training programmes for judges, prosecutors, and lawyers in selected key areas. The Mission is also expanding its support for Macedonian NGOs in monitoring trials, especially those related to organized crime.

In the area of police reform, the Mission was able to complete its training of over 1,000 recruits from ethnic minorities and will now concentrate on training higher ranks in international policing standards. Capacity building was also continued in the area of community policing and supported by means of regularly convening citizen advisory groups. The improved security situation allowed the citizen advisory groups to tackle specific issues or local peculiarities more comprehensively and to seek collective solutions. The Mission also played a leading role in training efforts connected with the transformation of the military border guard into a border police force.

With the withdrawal of Proxima, the EU's police mission, in December 2005, the EU's presence in police-related matters was reduced to a small police advisory team (EUPAT), consisting of 20 advisors from EU member states, which was intended to bridge the gap until the start of a large-scale twinning project on police reform in June 2006. The Mission should therefore continue to concentrate its policing-related activities on specialist areas not dealt with by the EU.

The majority of the newly elected mayors and municipal councils lack experience in local government. The Mission therefore worked with the Macedonian local authorities' association to develop a handbook outlining their new tasks. On account of their newly expanded range of competency, the new local authorities felt themselves confronted by an immense pressure of expectation.<sup>14</sup> The Mission trained more than 1,000 local government employees in their new areas of responsibility. In the OSCE's priority area of inter-ethnic relations, the Mission helped formulate municipal statutes – particularly in areas with a multi-ethnic population – and supported the establishment of local committees for inter-ethnic co-operation. In those municipalities, in particular, where boundary changes have created new majorities or minorities, local-level inter-ethnic relations are an important factor for inner stability. The work of local gender committees has also been supported.

While the Mission's field offices in Tetovo and Kumanovo were mostly charged with implementing confidence-building measures in the aftermath of the crisis, their role has evolved as the security situation in Macedonia has changed. Today, mission members in the field support the reform efforts of all departments of the Mission headquarters, providing assistance and advising during the implementation of local projects. This modified division of

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14 According to opinion polls, mayors are the most popular politicians in the country; cf. UNDP Early Warning Report, March 2006.

tasks has proved very successful in the last few years, particularly with regard to decentralization. Recurring calls for the closure of the field offices therefore do not do justice to the changed reality and the Mission's new *modus operandi*. Effective support for Macedonia's reform efforts should therefore be supported on all levels.

After the Macedonian government had decided to reform the electoral code, following the criticism of the 2005 local elections, the Mission supported the government in elaborating a unified electoral code. Several of ODIHR's recommendations were in fact incorporated into the new legislation. For instance, the influence of political parties, which had had a role alongside judges as members of the election commissions, was reduced. Election commissions are now staffed by civil servants. Furthermore, quotas were introduced for ethnic minorities, and the proportion of men and women in the election commissions and candidate lists was laid down.

ODIHR's final report on the 2005 local elections cited the parties' lack of political will to respect electoral laws and problems in implementation as the main reasons for the existence of irregularities. Following the adoption of the unified electoral code, therefore, the work of the Mission concentrated on the role of political parties in the implementation of democratic standards in elections. To this end, the Mission and its international partners organized a series of regional conferences in Macedonia's six electoral districts, which aimed to raise awareness of the parties' responsibility at all levels for the orderly running of elections. Discussions of election standards were also held with the involvement of national and international experts, and a dialogue was started on opportunities to improve elections.

#### *2006 Parliamentary Election Campaign: "It's the Economy, Stupid!"*

Parliamentary elections were held in Macedonia on 5 July 2006. The EU had declared the elections to be one of the key criteria for the Commission report due in the autumn on Macedonia's progress in fulfilling its accession criteria. A repeat of the events of previous elections could have significantly dampened Macedonia's prospects of a rapid start to accession negotiations. Although all parties had avowed their support for the democratic process, there was cause to be sceptical as to whether the political will to comply with international standards was present.

Within the Macedonian population, there had been a rapid change of mood and many voters were not willing to let the prospect of EU membership be spoiled once again by the short-term desires of individual politicians or parties to seek total victory at all cost. Fifteen years after independence and the introduction of democracy, many Macedonians believed that their country was at a crossroads.

On 5 July 2006, the voters were confronted with an unprecedented number of candidates and parties, many of whom were fighting for political survival or at least to retain their place in the top tier of national politics. Both the incumbent Prime Minister and his main challenger, Gruevski, were under pressure from their own parties and had to face challenges from members of the parties they had formerly belonged to. Both blocs had again joined up with several smaller parties and minority representatives in order to strengthen their positions and contain a broad spectrum of parties that represent a variety of ethnic groups and political ideologies. Neither of these phenomena are so unusual in a multi-ethnic country where the personalities of leaders has always played a greater role in a party than ideologies.

On the Albanian side, a hitherto unprecedented level of competitiveness between the two largest parties, the DUI and the DPA, had been achieved, and this manifested itself in a number of violent clashes between activists of both parties. While the DUI had enjoyed a significant lead over the DPA in all pre-election opinion polls, the latter managed to close the gap in home stretch. Thus both sides missed no opportunity to demonstrate that each possessed sufficient manpower to defend the desired result against irregularities committed by the other side – using force if necessary.

Election day proceeded without major irregularities, and the conduct of the polls was assessed by the ODIHR election observation mission as having largely met OSCE commitments for democratic elections. Nevertheless, violent incidents, especially between activists of the ethnic Albanian parties, negatively impacted on the overall assessment.<sup>15</sup>

The election results partially confirmed findings of previous opinion polls that had revealed a split regarding the popularity of the governing parties. While the DUI enjoyed a high level of support on the basis of its successes in implementing the constitutional amendments stemming from the Ohrid Framework Agreement and the restoration of basic security, the SDSM experienced a steady decline in popularity. Clearly, the SDSM did not manage to make political capital among the ethnic Macedonian population out of the implementation of the agreement. And the topic of security, which had long overshadowed the real needs of the population, faded into the background.<sup>16</sup>

The general dissatisfaction that the governing coalition had to struggle with was based rather on the ailing economy, shockingly high unemployment, and steadily deteriorating social conditions in which large sections of the population live. In recent years, the government had failed to achieve sig-

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15 Cf. OSCE Office for Democratic Institutions and Human Rights, *Former Yugoslav Republic of Macedonia, Parliamentary Elections, 5 July 2006, OSCE/ODIHR Election Observation Mission Final Report*, Warsaw, 18 September 2006, at: [http://www.osce.org/documents/odihr/2006/09/20610\\_en.pdf](http://www.osce.org/documents/odihr/2006/09/20610_en.pdf).

16 According to the UNDP Early Warning Report from March 2006, personal security now only played a role for two per cent of the population, taking a backseat to issues such as the economy, social issues, and fear of unemployment.

nificant results in these areas, nor had the public promises to attract major international investors to the country been fulfilled.<sup>17</sup>

Despite the opening of a one-stop shop for government services, which was launched with the promise to clean up the public sector and increase its efficiency, no improvement of note was achieved.

The example of the successfully completed privatization of the state energy company ESM<sup>18</sup> in the spring of 2006, during which the media speculated for weeks on what proportion of the sale price had been paid to the governing parties and company directors, showed that it was not only in the public perception that corruption continued to overshadow all reform efforts, thereby not helping to create a climate conducive to inward investment.

For its part, the opposition had announced that it would make economic and social issues the centre of its election campaign. However, it had also failed to present concrete plans, although it has promised tax reductions and a reform of the health service – notably two issues that unite the various ethnic groups. This was virtually the first time since the 2001 crisis that common rather than divergent interests had been of importance. The ongoing negotiations on the status of Kosovo and the still open question of the demarcation of the border between Macedonia and Kosovo had a decisive impact on the political climate prior to the elections.

### *The New Government – Ready to Cope With The Challenges?*

The parliamentary elections of 5 July brought to power the opposition coalition under the leadership of the VMRO-DPMNE and its leader Nikola Gruevski. However, the results turned out to be less clear than predicted in the opinion polls. One can reasonably claim that the factors described above constituted the main reasons for the victory of the VMRO-DPMNE over the SDSM in the ethnic Macedonian camp, although there is also a tradition in Macedonia to vote against an old government rather than for a new one.

In the ethnic Albanian camp, the DUI managed to score the expected victory, although this was also less decisive than the polls had projected.

Only a few days after the elections, the winning VMRO-DPMNE party announced its partners in a new government. To the surprise of many, their number did not include the DUI, the party that had won the majority of ethnic Albanian votes. Instead, the VMRO-DPMNE had asked its traditional partner, the DPA, to join the coalition as its ethnic Albanian partner, alongside the Liberals, the Socialists, the NSDP, the DOM, and several smaller parties. The DUI protested strongly and demanded that any government had to be

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17 The barriers most often cited as putting off the potential investors that Macedonia requires urgently to boost its economy are the country's excessive bureaucracy and the large number of outstanding property questions. Corruption also continues to play a major role.

18 *Elektrostanstvo na Makedonija*.

composed of the major parties of both camps. Nevertheless, the formation of the government reflected the constitutional and legal principles that define Macedonia as a parliamentary and not a consensus democracy.

The new Prime Minister, Nikola Gruevski, assembled a cabinet whose ministers had little political experience. He thus created the image of a new and clean team, with an average age of barely 35 years, that could tackle the country's main problems with fresh enthusiasm and start working to fulfil the promises of the election campaign: economic recovery and prosperity as well as fight against corruption. All this, of course, was to take place within the framework of EU and NATO integration. The success of the new government will strongly depend on its capacity to meet the high expectations of a population whose priorities have changed and which will hardly grant it the usual hundred-day grace period.

### *Conclusion*

Macedonia has succeeded in making progress in many areas of public life. This is demonstrated not least by the fact that, for the first time in many years, issues such as inter-ethnic relations and internal stability did not dominate campaigning. There is widespread support for rapid accession to the EU, transcending both political camps and ethnic divisions. However, Macedonia is faced with a growing reluctance to support further enlargement on the part of the public in many EU states, and the political leaderships of those states have declared the internal reform of EU institutions to be a priority ahead of further growth. In some areas, such as decentralization and minority issues, Macedonia is on track to meet the criteria for EU entry – and is even ahead of other countries in the region. A major hurdle that remains, however, is the absence of elections that fully meet international democratic standards, although improvements have been made. There also needs to be an enormous effort to reform the judiciary and to fight corruption and crime, as well as to improve the economic and social situation.

As Macedonia has travelled the path described above, the work of the OSCE Mission has evolved to accord with the new reality. This is why it is expressly recognized by the host country as a partner in the work of reform. This proves that an OSCE Mission that provides targeted and results-oriented support can still be of great benefit along the road that leads to EU accession.



## Difficult Relations: The OSCE and Belarus<sup>1</sup>

### *A Sober Report*

#### *2003: A New Start*

The OSCE Office in Minsk opened for business in February 2003. This marked the end of a critical phase in the relationship between Belarus and the OSCE, and both parties desired to make a new start. In December 2002, a Belarusian delegation had attended negotiations in Vienna, at which an agreement had quickly been reached. On 30 December, the Permanent Council of the OSCE unanimously adopted the Office's mandate. Also on 30 December, OSCE Secretary General Ján Kubiš and the Head of the Belarusian Delegation, Igor Leshchenya, signed a Memorandum of Understanding dealing with organizational questions relating to the Minsk Office. The new OSCE presence replaced the Advisory and Monitoring Group (AMG), which had been established in Minsk in February 1998. In the intervening years, however, tensions had grown between the Belarusian government and the AMG, which ended in an open confrontation. The step-by-step expulsion of the AMG's international staff meant that the AMG had lost all its working capacity by October 2003.

The mandate of the OSCE Office is broad in scope and resembles that of the AMG. It charges the Office with assisting the Belarusian government in "further promoting institution building, in further consolidating the Rule of Law and in developing relations with civil society". Other tasks concern the economy and the environment. However, the mandate also contains clauses that limit the Office's autonomy in ways that did not apply to the AMG: The Office is required to carry out its tasks "in a transparent way" and "in close co-operation and consultation" with the Belarusian government. Furthermore, the Belarusian OSCE Delegation issued an interpretative statement, later appended to the mandate, the effect of which was to ensure that the Office's project work would depend on Belarusian agreement. In discussions prior to the re-establishment of the OSCE presence, the government had also threatened to close the Office immediately, were it to interfere in Belarus' domestic concerns, as the AMG had frequently been accused of doing.

This made one thing clear: The competencies of the OSCE Office were considerably narrower than those of the AMG, which meant that the OSCE would have to operate considerably more cautiously than before. However –

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<sup>1</sup> The opinions expressed in this piece are the author's own.

and this also needs to be said – there were also promises of co-operation and constructive behaviour from the Belarusian side.

In subsequent years, the Permanent Council of the OSCE has renewed the mandate without changes, and Belarus has regularly appended the same interpretative statement.

Unrelated to the re-establishment of an OSCE presence, but at the same time, a new dawn in parliamentary relations occurred: On 21 February 2003, at its regular Winter Meeting, the Parliamentary Assembly of the OSCE (OSCE PA) adopted to accept the Belarusian National Assembly as a member. This was a necessary consequence of OSCE PA Rules of Procedure, which do not consider whether the parliament of an OSCE participating State is elected in a faultless democratic fashion or not. In this way, formal relations were established between the OSCE PA and the National Assembly formed on the basis of the presidential constitution of 27 November 1996. This gave an important boost in status to the official powers that be in Minsk. The result of this could have been more effective co-operation and greater independence for the Belarusian parliament – relative to the country's leadership. Headed by Ute Zapf, a German parliamentarian, the OSCE PA Working Group on Belarus, which had been created years previously in the absence of normal parliamentary relations between the OSCE and Belarus, made strenuous efforts to give this co-operation political substance. As later became apparent, however, the Belarusian parliament was and remains unwilling to participate in co-operation that aims at promoting OSCE principles in Belarus.

### *Society against the State*

In performing its work, the OSCE Office in Minsk had to take account of a dividing line between state and society: on the one side, the “official Belarus” of government, parliament, judiciary, and local authorities, and on the other what we could call – rather vaguely – the “other Belarus”, namely civil society, including NGOs, the independent media, some trade unions, and the political opposition. As experience shows, the representatives of official Belarus keep clear of the representatives of civil society as much as possible, maintaining distance and avoiding discussions. There is also little interest in contact on the part of civil society, the key reason for this being the experiences civil society actors have had with the authorities. While the OSCE Office does attempt to implement projects jointly with the government and NGOs, and has successfully done so in several cases, the desire for distance and a sort of fear of contact have always trumped any interest in co-operation. Similarly, efforts to bring both sides to the table have also generally proved fruitless.

For this reason, the Office has had to perform a balancing act, often pursuing parallel courses with each of its partners. According to the mandate, our main partner was clearly the government, whom we were to support and with whom we were to co-operate closely. There are several reasons why this was practical and sensible. At the same time, however, it was obvious that the commitments to the OSCE entered into by the government demanded more than it was willing to give. For the OSCE, the development of civil society is a priority task, but the Belarusian leadership has no interest in an autonomous civil society. This unwillingness on the part of the government means that the OSCE Office cannot fulfil its mandate to assist the government “in developing relations with civil society” in full. The same problem can also be seen, for instance, where the mandate speaks of “consolidating the Rule of Law”. Freedom of assembly and of the press – to name just two basic rights – are regularly disregarded by the authorities – to the detriment of civil society. Nonetheless, for the OSCE Office not to be active in these areas is irreconcilable with the “OSCE principles and commitments”, to which the mandate explicitly refers. Vienna made no shortage of efforts to encourage the Office to take action, and the presence was thus constantly faced with the need to act decisively and pragmatically to find innovative ways to fulfil the mandate, which is admittedly not totally free of contradictions.

#### *Relations with the Government and Other State Institutions*

For the OSCE Office in Minsk, the Foreign Ministry was the most important government department. Especially at the start, it was here that fundamental questions were discussed, which was highly significant for the establishment of co-operative relations and a basic level of trust. The Foreign Ministry also acted as co-ordinator. At the same time, our project activities ensured that we came into contact with a variety of ministries and other state institutions, developing businesslike co-operative relations with most of them. Project work was one of the most important facets of the Office’s tasks. Projects were carried out in the field of economic and environmental issues, advising on legislation, social issues, and cross-border matters (human trafficking, illegal migration). Others focused on human rights, electoral law, media problems, and local self-government. These were mostly financed from the OSCE Office’s own budget. Although modest in volume and not nearly approaching the scale of UN and EU projects, they were nonetheless welcomed by the government. At the start of each year, the Foreign Ministry proposed considerably more projects than the OSCE Office could cope with – in both financial and personnel terms, especially since the Office also made its own project proposals. We assessed the projects as contributions to the long-term development of the country, but also as a means of raising our profile, building trust, and strengthening the government’s interest in the OSCE Office. Our

project activities granted us an impartial insight into the activities of the government and enabled us to make valuable personal contacts. At the same time, we were able to prove that we were earnest in our desire to co-operate. Our project activities, which were broad in scope and demanded considerable energy, were probably the real basis for the creation of viable relations with the government. They prevented other segments of the Office's work from causing serious conflict situations.

As already noted, we were very much reliant on the co-operation of the government, which had ensured that we could not implement any projects without its agreement (although no veto right could be derived from the mandate and one would not have been in accordance with the practice of other OSCE missions). This meant we could implement few projects in politically sensitive areas (electoral system, position of the media, etc.). Also noteworthy is the fact that activities of the kind we were able to undertake in 2003 were later rejected. The government also turned down most projects that NGOs proposed to undertake in partnership with us or with our financial support. There was therefore much contained in the mandate that we would have liked to do but could not. Nonetheless, a sufficiently large range of worthwhile projects did meet with the government's approval.

The government accused us frequently of overstepping our mandate and interfering in domestic affairs. We engaged with our critics but did not back down when we were in the right. Differences of opinion remained, e.g. over the question of non-interference. As is well known, at the Meeting of the Conference on the Human Dimension of the CSCE in Moscow in 1991, the participating States defined human rights as matters of international concern, explicitly excluding, in relation to the human dimension, complaints based on the notion of interference in domestic affairs. The Belarusian Foreign Ministry rejected our position that this injunction applied equally to Belarus but did not justify its position. The Belarusian government's one-sided "interpretative statement" also demands that the OSCE Office respect the non-interference principle, as though the Moscow Declaration didn't exist.

Our relationship with the political opposition was a sensitive topic for the Belarusian leadership. From the start, the OSCE Office exercised caution inasmuch as it refrained from advising or providing organizational support to opposition parties. We considered that providing direct support, e.g. by organizing regular meetings actually on our premises, would amount to an attempt to influence Belarus's domestic political struggles. This would have been a breach of the obligation to remain politically neutral, even if every observer knew that the government was making things unreasonably difficult for the opposition. Equality of opportunity was a more than distant prospect. The OSCE Office, however, made a major effort to ensure that the legal environment in which political parties had to operate came closer to meeting OSCE standards, e.g. by contributing to the modification of electoral law (in which ODIHR led the way), and holding discussions on the law on political

parties. Unfortunately, these efforts came to nothing. We have also reacted to human rights violations committed on opposition politicians by the authorities. We maintained good personal contacts with the parties, particularly with the opposition.

The mandate was a political brief. Objecting to violations of OSCE principles was one of our duties, one we would perform publicly if necessary. It was not easy for us to behave in a way that remained true to our mandate while avoiding confrontation with the government. We were helped by our awareness that we represented an international organization engaged in a complex process that, while not conflict free, is extremely important. We received support from the OSCE Chairmanship, the Permanent Council of the OSCE (there were periods in which Belarus was on the Permanent Council's agenda on an almost weekly basis), and important OSCE delegations. On a personal level, we were treated fairly by the Belarusian government and state authorities, and it sometimes seemed that the government recognized our critical role.

The state-controlled media barely paid any attention to the OSCE Office. Television channels carried critical-to-polemical programmes on the OSCE presence several times. Curiously, however, these inevitably used footage of the old AMG rather than the current OSCE mission. While journalists from state media organizations attended our press conferences, they generally avoided all other contact with us. This was a shame, as it considerably restricted our opportunities to reach the public. We also sometimes observed a high level of reticence among the general population. Not everyone, and not every organization – from a “loyal” party, to a cautious NGO – wanted to be associated with us.

In this environment, where a degree of rejection was not uncommon, it was one of our most positive experiences with the government that it never called into question our right, set down in the Memorandum of Understanding (sections 8 and 11), to make contact with anyone in Belarus. Apart from a few unpleasant experiences with local authorities, we experienced no interference in this area.

The current parliament was not constituted by free elections. Opposition parties and politicians are not represented in parliament. There is no separation of powers, and the dependency of the deputies on the national leadership is obvious. Nonetheless, as already mentioned, the parliament is a member of the OSCE Parliamentary Assembly. After initial hesitation, the OSCE Office made the effort to make contact with the parliamentary leadership, the committees that are relevant for particular tasks, and with individual parliamentarians. With only a few exceptions, the response was positive. It would therefore have been a failure not to make use of this communications channel. In this respect, the OSCE presence possesses more freedom of movement than the representatives of many a government, thanks to the weight that the OSCE places on co-operation – even in its name. The OSCE Office was also

in direct contact with the judiciary, above all with the highest courts and the state prosecutor, and was thus able to discuss many issues and make interventions – frequently to positive effect.

### *Civil Society*

The OSCE Office considered supporting civil society to be one of its most important tasks. There were two reasons for this: First, the emergence of civil society is well known to be a powerful motor for the democratization of a country. Second, civil society in Belarus is particularly in need of support in trying to stand up to the state.

As noted above, the Belarus leadership looks on civil society with deep mistrust. The idea of free spaces outside its control does not fit in its authoritarian imagination. Belarus's leaders view political autonomy within society as a source of danger, and eye with suspicion any citizen who takes an interest in politics. While President Alexander Lukashenko recognizes youth and women's organizations, trade unions, and veterans' associations, this only applies to those that are financially dependent on the state and can thus be controlled. While genuine NGOs are not forbidden, and there are bureaucratic procedures to govern licensing, organizational forms, and competencies, the hurdles that need to be overcome are high, and regulations exist that permit state intervention and control.

A few months after the reopening of the OSCE presence, pressure on Belarusian civil society increased visibly. It has not let up to this day, and has weakened civil society, which was already under considerable pressure. In 2003 and 2004, numerous NGOs were dissolved by court order. Rigid requirements to seek approval before accepting international technical assistance and humanitarian aid were introduced in 2004. A law of 19 July 2005 amended and tightened the law of 4 October 1994 on social organizations. The same applies to the law on political parties, a new version of which was also passed by parliament on 19 July 2005. In addition, new criminal offences were established, limiting the political room to manoeuvre of civil society, including political parties: On 15 December 2005, the President signed an amendment to the criminal code with deliberately unclear criteria that considerably lowered the threshold for prosecution of journalists, representatives of NGOs, and political parties. While this law has so far not often been applied, it nonetheless represents a sword of Damocles that, by threatening prosecution, limits freedom of opinion and expression in worrying ways from a constitutional point of view.

It is hence no wonder that Belarusian civil society finds itself in a state of emergency. At the same time, the government has made it far harder to provide support from abroad, although – or rather because – the EU, the USA, and other donors have focused their policies on supporting Belarus's

civil society. Practical support for civil society is thus quick to reach its limits, in the form of licensing regulations and bans.

Nor was the OSCE Office able to provide Belarusian civil society with much in the way of concrete material assistance. Nonetheless, it tried to make the best use of the room to manoeuvre that it possessed. We showed solidarity wherever and whenever it was justified. We maintained personal contacts based on trust, and our office was open to anyone. We dispersed invitations to OSCE events abroad and assumed the costs. We observed court proceedings where there were suspicions of political motivation, and attended demonstrations as observers. We have met the families of the “disappeared”, intervened with the government, issued protests in the form of press releases, and visited political prisoners. In line with our mandate “to monitor and report”, we have informed the OSCE regularly once a month and when events necessitated. Copies of our reports have been sent to all 56 delegations, a number of international organizations, and the Belarusian authorities. We were also in constant contact with the OSCE Chairmanship and the Secretariat. Our reporting was not limited to civil society but covered all the Office’s activities, including project work.

The OSCE Office paid close attention to the small number of non-government media organs, i.e. the newspapers and agencies that were independent of the state. There are still newspapers that embody a critical, democratic spirit, and a number of responsible, brave journalists deserve respect. However, contrary to the Charter for European Security of 19 November 1999, which President Lukashenko, along with other OSCE Heads of State or Government, signed at the last OSCE Summit in Istanbul, “the basic conditions for free and independent media”<sup>2</sup> are not being created in Belarus. Instead, the free press is being strangled. A campaign to this end began on 29 May 2003, when printing of the most important independent newspaper, the well-respected *Belaruskaya Delovaya Gazeta* (BDG), was suspended for three months. Since then, more and more newspapers have been forced by the authorities into measures that threaten their existence, and many have gone out of business as a result. With virtually every other aspect of the newspaper industry in state hands (printing presses, distribution networks, etc.), and bearing in mind that the state can influence subscriptions and advertising, adequate means certainly exist through which the authorities can inflict pressure.

On 22 March 2006, the BDG, which had been printed in Smolensk, Russia, since 2003, ceased “normal” operations. It is currently attempting to maintain an online edition. The other important newspaper, *Narodnaya Volya*, has managed to survive by making major sacrifices. The newspapers

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2 Organization for Security and Co-operation in Europe, *Charter for European Security*, Istanbul, November 1999, reprinted 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.

*Shoda* and *Nasha Niva* – the latter founded in 1906 as the voice of the Belarusian national movement – have been brought to the brink of closure by a number of court rulings. It is truly a tragic situation.

To the extent that it has been able, the OSCE has made an effort to counteract the wave of newspaper closures in Belarus. The OSCE Office has not been alone here. Intensive efforts have been made by the OSCE Representative on Freedom of the Media, Miklós Haraszti. The report that he presented to the OSCE Permanent Council following his visit to Minsk from 9 to 11 February 2005 was extremely coherent and convincing, and he was decisive and intelligent in his conversations in Minsk.

It is understandable that civil society has great expectations of the OSCE and the OSCE Office in Minsk. Nor is it surprising that disappointment, discontentment, and criticism were the result when we failed to meet all these expectations. Nonetheless, we have observed growing understanding for our course of action. The representatives of “the other Belarus” have gradually recognized the seriousness and sincerity of our intentions. As they are themselves subject to pressure from the state, they can accept the limits that constrain our actions. In this way, despite the occasional dashed hope, trust and partnership have come to exist. The German Foreign Office claimed once that the OSCE Office embodied the conscience of the world. Perhaps it is not wrong to suppose that the Belarusian Helsinki Committee, the Belarusian Association of Journalists, and many other NGOs feel the same. We have been repeatedly assured that the OSCE is needed; withdrawal from Belarus would be met with incomprehension. The calls made by the political opposition for the OSCE to observe the presidential election continue this trend.

#### *Election Monitoring by the OSCE*

Methodical monitoring is a key instrument for ensuring democratic elections. The OSCE, represented by the Office for Democratic Institutions and Human Rights (ODIHR), has had excellent results in this area and has gained a sound reputation, although it has come in for strong criticism by some of those on whom it has turned its gaze. In Belarus, ODIHR observed the 2006 presidential elections and the 2004 parliamentary contest. In both cases, Belarus invited the OSCE to perform electoral observation in good time. On each occasion, ODIHR established an office in Minsk, which it staffed with experienced election observers. The OSCE Office in Minsk had no specific tasks to perform within the scope of the election observation.

The presidential elections of 19 March 2006 ended as expected in victory for Alexander Lukashenko. According to ODIHR’s final report of 7 June 2006, “the conduct of the 2006 presidential election in Belarus failed to meet

OSCE Commitments for democratic elections”.<sup>3</sup> The report continues: “In general, the State authorities, including the Central Commission on Elections and National Referenda (CEC), applied legislation in a restrictive and, at times, arbitrary manner.”<sup>4</sup> ODIHR had made similarly unequivocal observations regarding the parliamentary elections of 17 October 2004, concluding that the elections “fell significantly short of OSCE commitments”.<sup>5</sup> In the parliamentary elections, the deep concerns over the legitimacy of the elections and the simultaneous constitutional referendum were based above all on the one-sidedness of the results: Not a single opposition candidate was elected, while 86 per cent of voters allegedly supported the controversial referendum.

Some argue that Lukashenko would have won the election even had it not been manipulated, and that he should thus ultimately be considered the rightful victor. Indeed, the Belarusian sociologist Oleg Manaev announced, based on a survey carried out by his institute, that Lukashenko won 63.3 per cent of votes;<sup>6</sup> according to the official results, he won 83 per cent.<sup>7</sup>

The figure of 63.3 per cent – assuming it is accurate – tells us something about how high the actual number of votes cast for Lukashenko must have been, but says nothing about the influence of the unfair election campaign on the way people voted. In view of the fact that “civil and political rights guaranteed by the constitution were disregarded, including freedom of expression, association, and assembly, and the right to access, gather and disseminate information”,<sup>8</sup> the level of manipulation is estimated to have been high. It should also be borne in mind that the parliamentary elections of 17 October 2004 were combined with a constitutional referendum concerning the removal of the limits on the number of terms a presidential candidate could stand. The constitutionality of the referendum was questionable, and was challenged by the Venice Commission of the Council of Europe in its plenary session of 8/9 October 2004. The validity of Lukashenko’s victory is therefore shaky. This claim should not deny that he enjoys considerable support in Belarus among those who see him as a guarantor of order in the country, modest material security, and loyalty to tradition.

Since the end of 2004, Lukashenko has been troubled by the fear that events similar to those that transpired in Ukraine could also permanently

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3 OSCE Office for Democratic Institutions and Human Rights, *Republic of Belarus, Presidential Election, 19 March 2006*, OSCE/ODIHR Election Observation Mission Report, Warsaw, 7 June 2006, p. 3, at: [http://www.osce.org/documents/odihr/2006/06/19393\\_en.pdf](http://www.osce.org/documents/odihr/2006/06/19393_en.pdf).

4 Ibid., p. 2.

5 OSCE/ODIHR/OSCE Parliamentary Assembly International Election Observation Mission, *Republic of Belarus, Parliamentary Elections, 17 October 2004*, Minsk, 18 October 2004, p. 1, at: [http://www.osce.org/documents/odihr/2004/10/3733\\_en.pdf](http://www.osce.org/documents/odihr/2004/10/3733_en.pdf).

6 Cf. *BELAPAN*, 21 April 2006.

7 Professor Manaev’s institute, the Independent Institute for Socio-Economic and Political Studies (IISEPS), was dissolved on 15 April 2005 on the order of the Belarusian Supreme Court and has since operated out of Vilnius, Lithuania. It is one of the few independent research institutes of its kind in Belarus and has an excellent reputation.

8 OSCE/ODIHR, cited above (Note 3), p. 1.

transform power relations in Belarus. Since then, he has systematically taken precautions by implementing measures to keep the situation under control: tightening and expanding laws and state security norms, increasing indoctrination of state security agencies, levelling accusations and criticism at Western states and their embassies, restricting entry to the country, warning of disquiet and street fighting, discrediting the opposition to an unprecedented degree, arrests, expulsions from the university, bans of newspapers, large-scale media propaganda, and more. On 2/3 March, shortly before election day, by convening the “Third All-Belarusian People’s Congress”, an extra-constitutional body of some 2,500 loyal and subordinate followers of the President, he engineered a grandstand appearance for himself in front of a sympathetic crowd. His speech, which lasted several hours, was packed with the usual put-downs of his political opponents, and vindictive allegations aimed at Western actors.

During the election campaign, the opposition, whose two leaders were Alexander Milinkevich and Alexander Kazulin, showed that they were brave, decisive, and intelligent. They did not get carried away or act hastily, but remained level-headed and refrained from violence. They also revealed a remarkable political and organizational coherence, and their popular support grew, as became clear at the demonstrations on the evening of 19 March and the days that followed. The actions of the state authorities during this period were planned with cool rationality. On the one hand, they committed serious offences against human rights, above all against the basic right of freedom of assembly, and the right to personal freedom. (Maybe the authorities acted in formal accordance with Belarusian law, but in many cases, they were certainly not in line with OSCE commitments or with other international norms that are politically or legally binding on Belarus.) At the same time, however, not every manifestation of protest was suppressed by violent means, nor were firearms deployed.

The presidential elections did not give the electorate a chance to decide – freely and in accordance with democratic principles – who would be the head of state for the next five years. Nonetheless, the elections and the campaign that preceded them had a positive effect: The opposition grew considerably in political stature and became a politically relevant factor for the Belarusian public. Moreover, events in Belarus provoked blanket criticism on the part of the international community, with consequences for Lukashenko’s position in the West. This led to the creation of domestic and international momentum that could free the country from the political stagnation in which it has long been mired.

### *Shortfalls of the OSCE?*

The OSCE's record in Belarus is disappointing. Despite the Organization's presence over many years in the form of its field mission and its efforts to influence Belarus's development using all the other instruments it has at its disposal, there is no evidence of progress being made along the path to democracy, rule of law, and the development of civil society. In some areas, the situation has even deteriorated. This is why some people may be asking if the OSCE has failed.

At this point, we would do well to recall some of the things that are special about the OSCE.

As we know, the 56 participating States are anything but homogeneous and have a wide range of historical, political, and ideological foundations. It is not only the various governments that have different views of the values that the OSCE seeks to promote. The societies of the participating States also have differing understandings of freedom and the separation of powers, or consider these achievements to be less important than other things. It appears that some participating States with a highly developed democratic culture do not take sufficient account of this fundamental fact. The acceptance of OSCE principles in countries "East of Vienna" also requires so much time because of opposition from political power interests and because society is not yet "mature". Belarus seems to be a good example of this.

As we also know, the OSCE system is based on the consensus principle; and, indeed, without this principle, the OSCE could never have been created in the first place. It is reflected in both the Organization's co-operative security approach, and in the fact that OSCE standards cannot be forced upon a participating State. Respect for them can be encouraged through dialogue, criticism, and political pressure, but the OSCE can achieve little against the will of a participating State.

Over the years, the countries "East of Vienna" have become more self-confident. They are demanding greater involvement in shaping and implementing OSCE policy. This also influences the way in which the OSCE looks at a country like Belarus, and this can no longer be considered a purely Western perspective. It would be an error to suppose that Belarus is completely isolated among the 56 participating States.

From all this, it follows that the OSCE needs to act differently from other international organizations. A policy of coercion or confrontation would go against the Organization's essence and paralyse its ability to exert an influence in the long term. "Soft power" may be a weakness, but it is also a strength. The principles that the OSCE espouses do not become meaningless simply because they are not – or not completely – put into practice by the participating States. Their implementation can be called for on an ongoing basis – just as West Germany claimed the right to reunification for many years.

The OSCE pays critical attention to Belarus – its difficult partner. Its strategy is to both exhort and co-operate, while placing faith in the power of gradual change.

## The Transdnestrian Settlement Process – Steps Forward, Steps Back: The OSCE Mission to Moldova in 2005/2006<sup>1</sup>

The process of seeking a sustainable peaceful political settlement to the Transdnestrian problem underwent fundamental changes from mid-2005 into 2006. While political settlement negotiations resumed in an expanded format in autumn 2005,<sup>2</sup> relations between Chişinău and Tiraspol grew increasingly tense and hostile, especially after the introduction of a new customs and border regime by Ukrainian and Moldovan authorities on 3 March 2006. The new regime on the Transdnestrian segment of the Moldova-Ukraine border produced not only a hostile reaction from Tiraspol, but a marked increase in the polarization between the mediators and observers in the political settlement process. After the Transdnestrian referendum in favour of independence and closer association with the Russian Federation held on 17 September 2006, the outcome of the new initiatives and events of 2005-2006 still hangs in the balance.

### *The Orange Revolution and the 2005 Moldovan Elections*

The installation of new governments in Kiev and Chişinău in January and April 2005 brought far-reaching changes in the Transdnestrian political settlement process throughout 2005. The so-called Yushchenko Plan, introduced by the Ukrainian President Victor Yushchenko at the GUAM (Georgia, Ukraine, Azerbaijan, Moldova) Summit in Chişinău on 22 April 2005 and presented in more detail by Ukrainian negotiators in May at a meeting in Vinnitsa, Ukraine, changed the emphasis of the political settlement process to focus on the need for democratic reform of the Transdnestrian regime as a prerequisite for negotiating a political settlement. On 10 June 2005, the Moldovan parliament overwhelmingly adopted a declaration welcoming the Yushchenko Plan, with two appeals appended, calling for free elections in the Transdnestrian region under international supervision as a condition for progress towards a political settlement, and demanding completion of the withdrawal of Russian military forces from the Transdnestrian region and replacement of the current Russian peacekeepers by an international peacekeeping force.

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

2 The original five-sided negotiation process (Moldova, Transdnestria, and the three mediators Russia, Ukraine, and the OSCE) was expanded in autumn 2005 by the addition of the EU and the USA as observers (“five plus two”).

On 22 July 2005, the Moldovan parliament adopted an organic Law on Basic Principles of the Special Legal Status of the Settlements on the Left Bank of the Dniestr (Transdnistria). The law mandated democratization of the Transdnistrian region and withdrawal of Russian military forces as agreed at the 1999 OSCE Istanbul Summit as prerequisites for further negotiations on a special status for the Transdnistrian region.

The Moldovan legislation offered a formal status of autonomy for Transdnistria (an “autonomous territorial formation [...] within the composition of the Republic of Moldova”). The statute specified that the division of competencies between Moldovan central authorities and Transdnistrian authorities should be made on the basis of Moldovan legislation, thereby precluding adoption of the federal and confederate provisions of previous proposals, in particular the controversial “Kozak Memorandum”.

The Moldovan parliament’s adoption of the law on the basic principles of Transdnistria’s status was greeted with a barrage of criticism, in particular from Tiraspol and Moscow. The most frequent objection was that the Moldovan action was unilateral, taken without either consultation or consent from its Transdnistrian negotiating partner. However, the Moldovan parliament’s action was clearly consistent with the overall direction of the Yushchenko Plan. The Ukrainian initiative envisioned a three-stage process in attaining a political settlement of the Transdnistrian question, with the draft laws on status during the first stage to be worked out by the Moldovan parliament. The Transdnistrian legislative body was not to be accepted as a legitimate negotiating partner until a later stage, after holding free, democratic elections in the region.

Nonetheless Tiraspol reacted to President Yushchenko’s GUAM Summit proposals and the Ukrainian plan presented at Vinnitsa with outright hostility, while Moscow greeted the initiatives with minimal but clearly sceptical commentary. Transdnistrian negotiators sparred with their Ukrainian counterparts over various provisions of the Yushchenko initiative and Ukrainian plan for two months following the meeting in Vinnitsa. In July 2005, after a meeting in Kiev with President Yushchenko, the Transdnistrian leader, Igor Smirnov, formally offered his support in writing for the Ukrainian settlement plan. However, Smirnov’s letter to Yushchenko contained enough conditions, qualifications, and reservations to allow the Transdnistrian negotiating team to drag out or resist actual adoption and implementation of most of the provisions of the Ukrainian plan for a very long time.

#### *Expansion of the Negotiating Format*

One key point of President Yushchenko’s GUAM Summit initiative was expansion of the format of the Transdnistrian political settlement negotiations to include the European Union and the United States as formal participants.

Since the early 1990s, the United States has closely followed the Transdnistrian political settlement process through the office of a Special Negotiator for Conflicts in the Newly Independent States, located in the State Department. The US Special Negotiator has regularly visited Moldova, including the Transdnistrian region, and consulted closely with the parties and the mediators in the political settlement negotiations. The US Special Negotiator's portfolio also includes the conflicts in Nagorno-Karabakh, South Ossetia, and Abkhazia.

Since the turn of the century, the EU also has paid increasing attention to Moldova and the unresolved conflict in its Transdnistrian region. In February 2003, the EU joined with the US in placing visa sanctions on top officials from Transdnistria to encourage Tiraspol to change its unconstructive attitude in the political settlement negotiations. The EU extended these visa sanctions in response to Transdnistrian closure of several Moldovan Latin script schools in Transdnistria in July 2004. As formal EU expansion into Romania and Bulgaria grew nearer, overall attention to Moldova grew substantially. After adoption of the EU-Moldova Action Plan on 22 February 2005, the EU appointed Dutch diplomat Adriaan Jacobovits de Szeged as Special Representative for Moldova in March of that year. One of his tasks was to increase the EU contribution to the resolution of the Transdnistrian conflict.

Both the government and civil society in Chişinău had for some time discussed the possibility of changing the Transdnistrian political settlement negotiating format, in particular by adding the EU and the US as formal participants. Neither Russia nor Ukraine were eager to relinquish their privileged positions as mediators and self-proclaimed "guarantor countries". However, following the Orange Revolution, Kiev changed its position, and in his GUAM Summit speech on 22 April 2005, President Yushchenko proposed formally including the European Union and the United States in the negotiation process. Brussels and Washington subsequently indicated their willingness to participate officially in the process.

Moscow's response to the Ukrainian initiative was essentially neutral and non-committal. With respect to enlarging the negotiating format, Russian representatives indicated to their co-mediators from Ukraine and the OSCE that they would be guided by and would accept Tiraspol's response to the proposal.

In discussions with the OSCE Mission to Moldova during July 2005, Transdnistrian negotiators indicated they would be willing to accept EU and US participation in the political settlement negotiations, but only in the role of observers. The OSCE Mission then spent several weeks in consultations with all interested actors – Moldova, Russia, Ukraine, the EU, and the US – to develop an acceptable definition of what would actually be meant by observer status. The eventual agreement on observer status entitled EU and US negotiators to participate in all sessions and discussions, receive all docu-

ments, make proposals, and comment on other proposals. However, EU and US negotiators would not sign documents, vote when decisions were taken, or serve as chairs for formal sessions. Since all decisions in the negotiations are taken by consensus, the lack of a formal vote for the EU and US was not considered a handicap.

Transdnestrian negotiators also requested individual consultations with the EU and US representatives to ask about their general approach and views on the Transdnestrian question. Chişinău did not object, and in August-September, EU and US representatives visited Tiraspol separately. With the completion of this apparently necessary piece of political theatre, agreement on expansion of the negotiating format was formalized at consultations between the political representatives (i.e. negotiators) of Chişinău and Tiraspol and the three mediators from Russia, Ukraine, and the OSCE held in Odessa on 26-27 September 2005. The protocol signed at the end of the Odessa consultations agreed to formal resumption of political settlement negotiations in Chişinău at the end of October after a 15-month hiatus.

#### *The Political Background: One Problem Solved, Another Deepens*

The political settlement negotiations had broken off in July 2004 with the Moldovan walkout in protest at Transdnestrian closure of two Moldovan Latin script schools and threats against at least two others. The acute crisis over the Moldovan schools in Transdnestrian-controlled territory lasted almost a full year. After brokering patchwork agreements that enabled the schools in question to open belatedly and operate during the 2004-2005 school year, the OSCE Mission, joined by colleagues from the Ukrainian and Russian embassies in Chişinău, mediated an agreement between Moldovan and Transdnestrian educational experts. This agreement, signed on 1 July 2005, provided for temporary registration of the Moldovan schools with local left bank authorities, which in turn enabled the schools to open and operate relatively normally for the 2005-2006 school year. Negotiations, brokered by the OSCE Mission, continued between educational experts from Chişinău and Tiraspol in search of a more durable agreement on the status and operation of the Latin script schools.

Resolution of the bitter, protracted school crisis was a necessary precondition for resumption of the political settlement negotiations. The success in achieving a temporary solution which allowed the Moldovan schools to reopen produced a result similar to squeezing a balloon – bitter tensions in relations between the right and left banks simply bulged out in other areas.

The most serious problems between Chişinău and Tiraspol during most of 2005 revolved around the travails of Moldovan farmers who live on the Chişinău-controlled left bank around Dubossary but cultivate lands to the east of the main north-south highway, which are under the control of the Trans-

dniestrian authorities. As early as the spring of 2000, local Transdnestrian authorities in Dubossary attempted to impose restrictions on the ability of Moldovan farmers from several Moldovan-controlled villages in the region (Cocieri, Malovata, Corjevo, Cosnita, and Dorotcaia) to visit and cultivate their lands. A meeting between then Moldovan Prime Minister Dumitru Braghis and Transdnestrian leader Smirnov resulted in a tacit truce between local authorities on both sides, and for several years the Moldovan farmers worked their fields largely without incident.

With the deterioration of relations between Moldovan and Transdnestrian authorities after President Vladimir Voronin's November 2003 decision not to sign the Kozak Memorandum, local Transdnestrian authorities imposed increasing restrictions and fees on Moldovan farmers working lands under *de facto* Transdnestrian jurisdiction during 2004. A crisis – and near hostilities – developed in the wake of an attempt by Transdnestria in October 2004 to move a “border and customs” checkpoint some 200 meters into Moldovan-controlled territory near the left bank village of Dorotcaia. Despite repeated Moldovan appeals, the Transdnestrian and Russian delegations in the Joint Control Commission (JCC), which controls the Joint Peacekeeping Forces in the Security Zone between the parties to the conflict along the Dniestr River, proved unwilling and/or unable to resolve the issue of freedom of movement and access for Moldovan farmers in the region. When Transdnestrian authorities refused to permit Moldovan farmers to sow their fields in spring 2005, the Moldovan delegation walked out of the JCC, paralysing its work.

Together with representatives of the Russian and Ukrainian Embassies, the OSCE Mission sought to mediate a solution to the so-called “Dorotcaia crisis”. After a high-level meeting with Transdnestrian leader Smirnov in April 2005, it appeared a solution was at hand, but at the last minute the deal fell through. The OSCE Mission along with Russian, and Ukrainian representatives met regularly with Moldovan and Transdnestrian JCC delegations, but to no avail. With the issue unresolved, Moldovan negotiators made freedom of movement in the Security Zone – often referred to as simply “Dorotcaia” – a constant priority point on their agenda for the political settlement talks. Failure to make progress on this issue through the winter of 2005-2006 meant that every round of the political settlement negotiations included an acrimonious, protracted exchange over the plight of the Moldovan farmers.

Paradoxically – and happily – as the political settlement negotiations fell apart during the spring of 2006, a mutually acceptable temporary solution was found to the Dorotcaia issue. After the February 2006 negotiating round disintegrated over Moldovan objections to the lack of progress in addressing the plight of the Moldovan farmers, OSCE Mission consultations with Transdnestrian and Russian negotiators identified a possible approach to an *ad hoc* solution of the problem in the Dubossary region. Moldovan and Transdnestrian negotiators agreed to the OSCE's proposal to form a working

group of representatives of Moldovan and Transdnestrian local authorities from the Dubossary region. With the assistance of Russian, Ukrainian, OSCE, and EU representatives, these local representatives worked out an agreement on an informal, temporary, local system of registration with local authorities and free passage for Moldovan farmers. This agreement purposely avoided touching on any questions involving ownership or jurisdiction. In mid-April, a formal agreement on registration and land use until 2009 was signed by local Transdnestrian and Moldovan officials. By the holidays in early May, Moldovan farmers were back in their fields.

#### *Political Settlement Negotiations: Setting the Agenda*

The Transdnestrian political settlement negotiations resumed in the autumn of 2005 with an agenda that was largely determined by the Moldovan and Ukrainian negotiators, drawing upon April's Yushchenko initiative and the Ukrainian plan. The central point of the Ukrainian settlement scheme was the election under international supervision of a new legislature (Supreme Soviet) in Transdnestria that would be accepted as a legitimate negotiating partner. Ukrainian negotiators proposed that this first stage of the plan be completed in six months, quickly enough to precede the regular elections to Transdnestria's Supreme Soviet scheduled for December 2005. Experts from the OSCE Mission prepared an informal, unofficial analysis of the time and resources that might be needed to conduct democratic elections meeting international standards in the Transdnestrian region. This analysis was discussed at an informal meeting in Kiev in late August, but the scope of the technical and political questions to be resolved precluded any dramatic results. In any case, the Transdnestrian negotiators refused to engage with the proposal, referring the question to deputies in the sitting Supreme Soviet.

On 21 September 2005, in an effort to hasten the process, Presidents Voronin and Yushchenko sent a joint letter to the Slovene OSCE Chairman-in-Office Dimitrij Rupel proposing the dispatch of an international assessment mission to Transdnestria to evaluate conditions and make recommendations on necessary steps for holding democratic elections in the region. The Moldovan and Ukrainian delegations raised the proposal at the consultations in Odessa on 26-27 September. Transdnestrian negotiators came within a phone call to Smirnov of accepting the idea in principle. As it was, composition and discussion of a draft mandate for an international assessment mission became a leading item in the agenda for multiple rounds of the political settlement talks through the autumn and winter of 2005/2006.

As discussions on a possible international assessment mission and internationally conducted elections in the Transdnestrian region dragged out in the political settlement talks, events on the left bank took their own course and overran the discussion. An election campaign for a new Supreme Soviet

was announced in September 2005 and elections were held on 11 December. As with the three previous elections to the Transdniestrian legislative body, there was no international presence, no monitoring, and no recognition.

Despite the fact that the election campaign and polling failed to meet international standards, the vote produced a majority of deputies in the new body with some apparent distance if not independence from the Smirnov regime. Twenty three of the 43 deputies in the new body hailed from the *Obnovlenie* (Renewal) movement, reputedly supported by a number of large entrepreneurs, including the retail, media, and football conglomerate Sheriff. *Obnovlenie* leader, Yevgeny Shevchuk, was elected Speaker of the new Supreme Soviet, replacing long-time Smirnov cohort, Grigory Maracuta. However, the election of the new Supreme Soviet failed to have any positive effects on the political settlement talks. In fact, the installation of deputies with a new five year mandate made it that much harder to convince Transdniestrian representatives to agree to early internationally controlled free elections to replace them.

### *Factory Monitoring*

For years, political and opinion leaders in Chişinău have charged that Transdniestria engages in the manufacture, assembly, sale, and export of weapons of all sorts. Transdniestrian representatives have admitted to a small portion of the charges, but have persistently denied any massive, protracted, or commercial production and trade in weapons. Physical evidence to confirm or refute charges of arms manufacture or smuggling has been just about nonexistent, thereby reducing the dialogue across the Dniestr on this issue to a stream of unsubstantiated charges and equally unproven denials.

From time to time, participants in the political settlement process have proposed creating transparency around the operation of military-industrial facilities in Moldova, particularly in the Transdniestrian region, so as to settle accusations of arms dealing once and for all. In early 2003, Transdniestrian leader Smirnov proposed to the Dutch OSCE Chair and the OSCE Mission conducting inspections of major industrial facilities in the Transdniestrian region to counter Moldovan accusations of arms manufacturing. However, at that time Transdniestrian officials were not prepared to offer protracted, repeat access to the facilities in question or to the major export routes through Ukraine. OSCE officials concluded that one-time inspections would amount to little more than visits to a set of latter-day Potemkin villages, and no action was taken on the issue for some two years.

However, with the charges of arms smuggling continuing unabated, President Yushchenko's GUAM Summit initiative included a proposal for an international monitoring mission to be sent to military industrial enterprises in Transdniestria.

Through the summer months of 2005, the OSCE Mission consulted frequently with the parties and mediators in the political settlement talks, and produced a draft protocol (or agreement) for long-term monitoring of some fifteen industrial sites in Moldova's Transdnestrian region under the auspices of the OSCE.

After discussing the subject during the September consultations in Odessa, participants in the political settlement negotiations agreed to form an expert working group, which held several sessions at the OSCE Mission office in Chişinău to try to work out a text agreeable to both Chişinău and Tiraspol. However, working group discussions revealed deep differences between the parties to the conflict on this question, including such basic points as which parties should sign the factory monitoring protocol. After the issue was discussed without progress at two of the five-plus-two negotiating rounds, the Russian Federation negotiator suggested a change in approach, by using the template of the model agreement on inspection of industrial sites included in the CSBM package (see below, pp. 162-163) presented to both sides in the talks in July 2005.

The OSCE Mission produced a new draft protocol on factory monitoring, based on the template from the CSBM package, in time for the January 2006 five-plus-two negotiating round. While the format and some of the modalities of the proposed agreement were different, the most important elements, in particular the list of industrial objects to be subject to monitoring, were basically unchanged. The new proposed agreement was discussed at the two negotiating rounds held in early 2006. However, this discussion was cursory, largely polemical, and without substantive results.

#### *Military Aspects of Security: No Withdrawal, No CSBMs*

The withdrawal of Russian military forces and military equipment from the Transdnestrian region of the Republic of Moldova has been one of the primary aims of the OSCE Mission to Moldova since its deployment in April 1993. The Russian Federation first took upon itself the political obligation to remove its military forces from Moldova at the December 1992 OSCE Stockholm Ministerial Meeting. In its mandate, the OSCE Mission is charged with assisting the states involved in reaching an agreement for the withdrawal of foreign military forces from Moldova. In October 1994, Russia and Moldova signed a treaty calling for the withdrawal of all Russian military forces in three years. The OSCE was not a signatory or participant and received all of the ancillary protocols envisioned by the text of the treaty only years later. The treaty also contained the notorious phrase calling for the withdrawal of Russian forces to be "synchronized" with the attainment of a political settlement to the Transdnestrian question.

The Moldovan parliament ratified the October 1994 treaty almost immediately. However, the treaty languished in the Russian State Duma after its formal submission by the Russian government. Following the election in 1995 of a new and seemingly more radical legislative body, the Russian government withdrew the treaty from consideration in the Duma, arguing that it might otherwise be rejected outright by a majority of deputies. The Russian Federation has never formally repudiated the treaty, although the October 1997 deadline for completion of the withdrawal has long since passed.

Similarly, the Russian Federation has confirmed its political obligation to withdraw its military forces from Moldova's Transdnistrian region on an annual basis in OSCE Ministerial and Summit Meetings. At the November 1999 Istanbul OSCE Summit, in connection with the signing of the Adapted CFE Treaty, Russia agreed to explicit deadlines for the withdrawal of its military from Moldova – 31 December 2001 for CFE Treaty Limited Equipment (TLE) and 31 December 2002 for everything else. With the assistance of an OSCE Voluntary Fund established in the wake of the Istanbul Summit, Russia met the first deadline, either destroying or withdrawing to Russian territory over 500 tanks, armoured combat vehicles, and artillery pieces by late autumn 2001.

The withdrawal slowed considerably during 2002, and at the OSCE Porto Ministerial Meeting on 6-7 December 2002, Russia obtained a one year extension, to 31 December 2003, to complete full withdrawal. By that time the major task remaining was the removal or destruction of the 40,000 plus metric tonnes of munitions stored at the Russian ammunition depot near the village of Colbasna in the north of the Transdnistrian region. Because of Transdnistrian failure to co-operate with proposals for destruction of munitions on site, Russian military officials decided to remove all of the ammunition to bases in Russia. Work began in earnest in March 2003, and by the end of the year almost half of the ammunition had been removed. Unfortunately, in the winter of 2003/2004 and in the wake of Moldova's rejection of the Kozak Memorandum, the withdrawal process once again ground to a halt. An ammunition train was loaded and left Colbasna for Russia in March 2004. Since that time, no Russian ammunition, arms, or troops have been withdrawn from Moldova.

The Russian Federation has formally maintained its commitment to eventual complete withdrawal of its troops and military equipment from the Transdnistrian region of Moldova. However, Russian representatives explain that strained relations and political tensions between Chişinău and Tiraspol in recent years do not provide a sufficiently secure and stable environment in which to complete the withdrawal. They argue that improvement of relations and movement towards a political settlement will allow resumption of withdrawal of arms and ammunition. The OSCE Mission maintains contact with Russian military officials, including the Ministry of Defence in Moscow. However, during the past two years, these contacts and consulta-

tions on possible steps to renew and complete the withdrawal have not produced any concrete results.

### *Demilitarization – The CSBM Package*

Even during the most productive and co-operative periods of the political settlement process, it has been obvious that there is an extremely deep distrust between leaders in Chişinău and Tiraspol. This distrust might be expected, given the history of the brief but bitter military conflict between the right and left banks. However, it is exacerbated by the disproportionately large military, militarized, and paramilitary forces and amounts of weaponry possessed by both Chişinău and Tiraspol.

The OSCE has addressed the need for increasing mutual confidence and transparency and reducing military and paramilitary forces within Moldova since the late 1990s. Civilian and military leaders on both sides of the Dniestr were receptive in principle, and some modest steps were taken. For example, after over two years of discussion and negotiation, the armour and heavy weapons of both the Moldovan and Transdniestrian forces were removed from the Security Zone in August 2003. However, more ambitious confidence-building measures and arms reductions proved impossible to pursue within the format of the JCC due to the territorial limitation of its mandate to the narrow Security Zone along the river.

In 2004, the OSCE Mission undertook a more systematic and comprehensive approach to questions of military security, confidence-building, transparency, and reductions in arms and forces within Moldova. Using as models European arms control and CSBM agreements over the past two decades, in particular the CFE Treaty, the Vienna Document, and the Dayton Accords, the OSCE Mission produced a comprehensive package of draft arms-and-troop-reduction, confidence-building, and transparency agreements, which was initially presented to Chişinău and Tiraspol during the visit of OSCE Chairman-in-Office Solomon Passy in June 2004.

The crisis that erupted over Transdniestrian closure of the Moldovan schools in July 2004 derailed the prospect of immediate discussion between Chişinău and Tiraspol of the CSBM package. In the meantime, OSCE, Russian, and Ukrainian military experts conducted a thorough review and revision of the package through late 2004 and early 2005. In July 2005 the revised package of fourteen draft agreements was presented jointly by the Russian, Ukrainian, and OSCE negotiators to the Moldovan Minister for Reintegration, Vasile Sova, and Transdniestrian leader Smirnov.

It was hoped that the joint participation and united support for the package of the three mediators would increase chances of early discussion, adoption, and implementation of at least some of the draft agreements. As the initial author, the OSCE stressed that the package need not be implemented on

an all-or-nothing basis. In fact, the OSCE Mission proposed to the parties to the conflict and to its co-mediators that the sides begin by adopting an agreement on an exchange of comprehensive data on their military forces in order to increase transparency. Agreement and implementation of data exchange would be followed logically by agreement and carrying out of inspections of units and sites listed in the data exchange. These and further such steps might lead to an increase in confidence that in turn might permit negotiation and implementation of agreements on the reduction of military forces, that is, the beginnings of a process of demilitarization.

The CSBM package met with criticism from many quarters. Some Chişinău partisans objected that the package equated Moldova's legitimate military forces with the illegal units of the separatist regime. Transdniestrian military and security officials charged that the proposal was a trick to fool Transdniestria into disarming so that NATO could occupy the left bank on behalf of Chişinău.

Once the political settlement talks resumed in October 2005, the OSCE included on the agenda discussion of a proposed exchange between Moldovan and Transdniestrian representatives of data on their military forces as a first step in implementing the CSBM package. Moldova embraced the idea, and in November the Moldovan negotiator passed to the OSCE Mission comprehensive data on the Republic of Moldova's military forces and equipment. These data were provided on the condition that the Mission would retain custody and release them only when Transdniestrian representatives presented similar data on their military holdings.

Transdniestrian representatives agreed to the inclusion of the subject in the agenda for several rounds of talks, but steadfastly expressed their inability to convince their military to provide such data. In January 2006, the Transdniestrian representative presented a short (less than one full page) letter to the Russian Federation representative with some basic information on the troop strength and heavy weaponry of the Transdniestrian army. (The letter omitted other militarized and paramilitary forces, such as Interior Ministry troops, State Security Ministry troops, border guards, and Cossacks.) The Transdniestrian negotiator called this letter a form of data exchange, a claim disputed by almost all other participants in the talks.

After discussion of the CSBM package and the proposed exchange of data at the January 2006 round, negotiators called upon Russian Federation military experts to provide assistance to Transdniestrian military officials in preparing an adequate submission of military data in an internationally accepted format. No results had come of this appeal by the February 2006 round, which ended abruptly without written agreement on further steps. The CSBM package and consideration of an exchange of military data, along with the political settlement negotiations as a whole, have remained in suspension from the end of February into the autumn of 2006.

### *The Russian Federation Paper*

Russian Federation experts were at work through the summer of 2005 analysing the Ukrainian plan and preparing a Russian contribution. OSCE Mission representatives gained a detailed insight into the impending Russian contribution during consultations with Transdniestrian negotiators during the summer. In a process of bilateral consultations, the Russian Federation negotiator acquainted the OSCE Mission with the new Russian document in early September. Similar bilateral meetings took place during the month with other participants. The Russian representative then distributed the text of the document to all participants in the talks at consultations in Odessa on 26-27 September.

Moldovan negotiators reacted immediately and negatively to the Russian initiative and refused to discuss it in any format. The Moldovans pointed to a number of features in the document either drawn directly from the earlier Kozak Memorandum or very similar to provisions of the Kozak document. A process of bilateral Russian-Ukrainian consultations on the Transdniestrian settlement process during the late autumn of 2005 resulted in a positive reference to the Russian initiative in a Joint Statement by Presidents Putin and Yushchenko of 15 December. However, the Russian document was never formally included in the agenda of the rounds of the political settlement negotiations from October 2005 to February 2006.

### *The EU Border Assistance Mission*

The question of control of the Transdniestrian-controlled segment of Moldova's state border with Ukraine has played a major role in the Transdniestrian political settlement process since its inception. One of the foremost topics of discussion and in early 1996 one of the first written agreements between Chişinău and Tiraspol was an apparent deal on the formation of a single, unified customs service and system of border control. Unfortunately, Transdniestrian authorities eagerly accepted that portion of the 1996 Customs Agreement that permitted them to use Moldovan export documentation and customs seals and stamps. However, Tiraspol never implemented one of the other key points of this agreement, namely deployment of joint customs and border posts along the Transdniestrian sector of the border with Ukraine.

The economy of the *de facto* Transdniestrian mini-state was particularly sensitive to issues of border control. Transdniestria's relatively well-developed industrial sector is wholly dependent on access to foreign markets, largely by export through Ukraine's Odessa Oblast ports. In addition, the Transdniestrian retail sector is almost wholly dependent on imports, which during the 1990s came in equal measure through Moldova's right bank and the border with Ukraine. During the period that Tiraspol was able to make

legitimate use of Moldovan documentation from 1996-2001, Transnistrian enterprises made significant inroads into North American and EU markets, providing the bulk of the revenues needed to keep the Transnistrian state structures afloat.

While the Transnistrian economy boasted healthy legal industrial and retail-trading sectors, the region was also a haven for myriad semi-legal and outright criminal schemes. While neither Ukraine nor Russia formally recognized the self-proclaimed Transnistrian state, they placed no restraints upon imports and exports to and from Transnistria, especially during the period Tiraspol was legally using Moldovan export and customs documentation. With its unrecognized, unregulated status, Transnistria became in effect a giant offshore zone that businesses in Moldova, Ukraine, Russia, and Romania were able to use to evade domestic taxes. The Transnistrian regime appeared to co-operate willingly in this massive tax evasion. The lack of control on the internal border along the Dniestr and the state border with Ukraine also facilitated the growth of organized crime, which flourished in the region especially in the 1990s.

For many reasons, including the search for a political settlement and reunification of the country and the fight against corruption and organized crime, control of the border became an increasingly important issue after the turn of the century. Citing purported obligations incurred by Moldova upon its entry to the WTO in mid-2001, President Voronin revoked Transnistria's right to use Moldovan customs stamps, seals, and certificates of origin in September 2001 when Smirnov refused to agree on any steps towards deployment of joint customs and border posts along the Ukrainian border.

Voronin's action touched off howls of protest from Tiraspol and a crisis that halted political settlement talks for over nine months. Nevertheless Transnistria managed to continue its foreign trade almost unchecked through Ukraine. At the last minute, at the end of August 2001, Ukrainian President Leonid Kuchma backed out of an informal agreement to allow stationing of Moldovan customs officials at Ukrainian border posts along the Transnistrian segment on Ukrainian territory. In addition, despite an agreement in principle reached in May 2003 to require legal Moldovan documentation on imports and exports to and from the Transnistrian region, the Ukrainian customs and border services failed to take enforcement action.

Meanwhile, tensions over the border issue grew steadily after President Voronin's September 2001 action. Transnistrian representatives charged Moldova with violating the provision of the May 1997 Moscow Memorandum that provided Transnistria the right to establish and maintain independent foreign economic contacts. Moldovans, both government and non-governmental figures alike, charged that Transnistria was engaged in massive smuggling of all sorts across the border with Ukraine, and demanded the establishment of effective control along this border.

In November 2002, the OSCE sponsored a fact-finding mission to the region composed of representatives and specialists from a number of participating States to investigate the possibility of international border monitoring. In February 2003, even Transnistrian leader Smirnov made an offer to the Dutch OSCE Chair and the OSCE Mission to establish a system of inspection of the border. Through the spring of 2003, the OSCE discussed the possibility of establishing a border monitoring effort with Moldovan authorities within the context of the political settlement talks, and with interested parties within the OSCE, and developed several draft operational plans for such monitoring. However, agreement within Moldova and among OSCE participating States proved elusive. Chişinău and Tiraspol could not agree on several key conditions (e.g. Moldovan customs and border officials working on Transnistrian-controlled territory), and some participating states expressed concern about possible precedents that might be established by such a mission. With the deterioration of relations and the hardening of positions after the rejection of the Kozak Memorandum, the border question was, in effect, shelved during 2004.

While progress might have been blocked, the issue of border control never disappeared from the political settlement agenda. Ukraine's Orange Revolution removed one of the major causes of this blockage, the unwillingness of Ukrainian authorities to permit monitoring of the Transnistrian segment of the border from Ukrainian territory. In his April 2005 GUAM Summit initiative, President Yushchenko offered to permit short-term OSCE monitoring efforts on Ukrainian territory. Later, apparently presuming that it might be difficult to get Russia to join consensus on this question in the OSCE, Presidents Yushchenko and Voronin appealed directly to the European Union to establish a border monitoring mission. Greater EU interest in the region, manifested by the signing in February of the EU-Moldova Action Plan and the appointment of an EU Special Representative for Moldova, militated for a rapid, positive response. An EU assessment mission visited Moldova and Ukraine in August 2005. By 30 November, the EU, Moldova, and Ukraine had agreed on a mandate, and the EU Border Assistance Mission (BAM), with headquarters in Odessa, opened its doors for business.

#### *The Moldova-Ukraine Prime Ministers' Joint Statement and the Border Crisis*

After weeks, even months of negotiations, Moldovan Prime Minister Vasile Tarlev and Ukrainian Prime Minister Yuri Yekhanurov signed a Joint Declaration on 30 December 2005 in which the Moldovan government agreed to restore a system of expedited, essentially cost-free registration of Transnistrian enterprises with Moldovan authorities, while the Ukrainian government agreed to require all goods entering or leaving Transnistria to have proper

Moldovan documentation, as first agreed in the Moldova-Ukrainian protocol of 15 May 2003. Implementation of the Joint Declaration was to begin on 25 January 2006. Seeing the handwriting on the wall, Transdniestrian authorities complained vehemently about the new regime on the border envisioned by the Joint Declaration. Authorities in Tiraspol also did their best to prevent Transdniestrian entrepreneurs from attending briefings on the new system of registration and documentation scheduled by Moldovan and Ukrainian authorities in Odessa.

Arguing that Moldovan authorities had failed to fully restore the system of registration specified by the Joint Declaration, the Ukrainian government did not implement the requirement for Moldovan documentation for all goods crossing the border on the envisioned deadline. Moldovan representatives agreed to Transdniestrian requests to discuss the system of registration of enterprises in the negotiating rounds at the end of January and February, but as a matter of principle refused to discuss in these talks Moldova's right to institute or change the system of sovereign control on the state border. After another five weeks of negotiation and adjustment of the system of registration, Prime Minister Yekhanurov finally signed a decree at the beginning of March to commence Ukrainian enforcement of the Joint Declaration on 3 March 2006.

With Ukrainian customs officers requiring that exports and imports be conducted with legal Moldovan documentation and EU observers monitoring the process, Moldova achieved a degree of transparency and control on the Transdniestrian segment of its state border that had eluded it for over a decade. Transdniestrian authorities, however, immediately began a campaign of massive resistance to the new system on the border. Although registration with Moldovan authorities required at most minimal fees from Transdniestrian firms, authorities in Tiraspol clearly perceived the new order as the first step on a slippery slope, which might re-establish jurisdiction for Chişinău over economic activity on the left bank.

Rather than seek agreement with Chişinău on a division of authority in the sphere of regulating economic activity, Tiraspol chose to resist. Transdniestrian media called the Moldova-Ukrainian action a blockade, and halted all commercial rail and road traffic across the border. Transdniestrian authorities sent demonstrators to major crossing points into Ukraine and checkpoints into Moldovan controlled territory to protest the alleged economic blockade. (At one border crossing demonstration, OSCE Mission Members came across a crowd consisting almost entirely of familiar Transdniestrian Interior and State Security Ministry officials and their spouses.) Despite allegations of blockade and crisis, visitors to the region noted few if any shortages, no fluctuations in exchange rates, and normal day to day activities.

Transdniestrian allegations of economic blockade and crisis were gradually toned down, and the resistance measures eventually abated. By the end of March, at the demand of Sheriff, in particular, the largest business in

the region, and almost entirely dependent on imports, authorities in Tiraspol began to allow the declaration of goods with Moldovan authorities for import into the Transdniestrian region. By early summer, with first tacit and then overt acquiescence of left bank authorities, almost all Transdniestrian firms engaged in import or export operations (i.e. practically all major businesses in the region) had registered with Moldovan authorities, and obstacles to export of goods were gradually removed. While the Transdniestrian media continued to issue shrill denunciations of the “blockade” and allegations of economic crisis, by mid-summer the real economic situation had reverted just about to normal.

The one possible exception to a return to the *status quo ante* came as a result of the presence and work of the EU BAM. The European expert observers found little or no evidence of the alleged massive smuggling of arms and drugs across the Transdniestrian sector of the border. However, the EU Mission soon began to uncover evidence of substantial organized criminal activity in the region involving large-scale smuggling of other goods across the border. The most celebrated racket involved the legal import of frozen chicken parts into Transdniestria and subsequent illegal re-export through Ukraine and Moldova for markets in Eastern and Western Europe. As many small illegal shipments of frozen chicken were caught in Ukraine or along the Dniestr, it became apparent that the chicken smuggling operation netted the organizers at minimum some 30-40 million euros per year. Similar smuggling/illegal transit operations involving automobiles have also been discovered. While links remain to be established, it is clear that these operations involve a highly organized criminal structure, and that local Transdniestrian officials are either unable or unwilling to take action against these criminal groups.

#### *The Border Crisis and the Political Settlement Process*

As with other crises in previous years, the one occasioned by implementation of the Moldovan-Ukrainian Joint Declaration paralysed the political settlement talks. The negotiations had, in any case, been proceeding with great difficulty and without appreciable results since their renewal in October 2005. The Moldovan negotiators walked out of the late February 2006 session in protest at the failure to reach consensus on an approach to resolving the problems of the Moldovan farmers in the Dubossary region. Transdniestrian negotiators then declined to continue regular rounds of the talks, citing the so-called economic crisis and the failure to make progress on economic issues at the January and February rounds. Russian mediators also declined to push for continuing negotiating rounds at the time, citing the deep divisions between Chişinău and Tiraspol and the likelihood that any direct contacts would produce nothing more than fruitless polemical exchanges.

Instead, the three mediators and the two observers held two three-plus-two meetings, in Moscow in April and in Brussels in May 2006. Discussion at these meetings focused on how to get the settlement talks started again. At the Moscow meeting, Russian negotiators presented a “protocol on transit”, a document in the form of a draft agreement between Chişinău and Tiraspol that would more precisely define economic relations between them and regulations for Transdnistria’s foreign trade. The document provoked considerable comment and objections, in particular with respect to a provision to return to the *status quo ante* – before the Joint Declaration – while comprehensive agreements were in the process of negotiation. Russian experts took some of the comments into account and presented a revised version of the document at the Brussels meeting. To date, no further action has been taken.

The OSCE used the interlude following the halt in the five-plus-two negotiating rounds to conduct consultations on two papers already under development, and to circulate these papers at the Moscow and Brussels three-plus-two meetings. The first of these papers contained a proposed division of competencies between Moldovan central authorities in Chişinău and local authorities in Tiraspol, considered a central element in defining the special status envisioned for the Transdnistrian region, for instance, under the Moldovan law of 22 July 2005. Previous efforts at formulating a solution, such as the Kozak Memorandum, had come to grief due to the emotional debate over whether the structure of a united Moldovan state should be a federation, a system of autonomies, or a unitary state. In the so called “Competencies Paper” the OSCE sought to avoid the larger argument of federation versus autonomy and seek common ground first by identifying common positions over the specific division of powers between the centre and the region. Drafts of the paper were shown to and discussed individually with each participant in the political settlement process before the document was circulated at the Moscow meeting. The Moldovan negotiator subsequently called the paper an acceptable basis for Moldova to begin discussions of Transdnistria’s status within the country. No further action has been taken on the issue to this date.

#### *Peacekeeping: The Other Part of Demilitarization*

The second OSCE effort involved transformation of the peacekeeping forces in Moldova. The current peacekeeping operation in Moldova is a product of the ceasefire agreement signed by Moldovan President Mircea Snegur and Russian President Boris Yeltsin on 21 July 1992. The force includes troops from the Russian Federation, Moldova, and Transdnistria. A tripartite military command takes decisions by consensus and reports to the JCC, also consisting of Russian, Moldovan, and Transdnistrian representatives. Peacekeeping operations consist almost entirely of static posts at bridges, river

crossings, and checkpoints between Moldovan and Transdniestrian-held territory. A small number of military observers from the three participants in the operation, plus Ukraine and the OSCE, is available to investigate incidents on the spot. The number of troops and posts has been substantially reduced over the years. Current strength is somewhere between 1,300 and 1,500 troops, with 400-500 from each participant.

For some time, there have been discussions and proposals to change or reform the existing peacekeeping operation. In 2000, former Russian Prime Minister Yevgeni Primakov sought to obtain a recognized international mandate for the operation from the OSCE. In 2003, the Dutch OSCE Chair presented a food-for-thought paper that examined ways of internationalizing the mandate, composition, and command of the current operation. President Yushchenko's GUAM Summit initiative proposed transformation of the current peacekeeping operation into an "institute of civil and military observers". Yushchenko also offered to increase the number of Ukrainian military observers in the new body. In its declaration of 10 June 2005, the Moldovan parliament called for a gradual, step by step transformation of the current peacekeeping operation into an international body of civil and military observers.

After presentation of the Yushchenko Plan, the Moldovan delegation continuously demanded that transformation of the current peacekeeping operation be included in the agenda of the political settlement negotiations. Neither the Transdniestrian nor the Russian negotiators were particularly receptive on this question. In this context and with this background, the OSCE sought to bring together and to formulate the basic questions on and possible solutions to the overall issue of peacekeeping in Moldova in order to facilitate substantive discussion and possible agreement. Using previous OSCE efforts, in particular the Dutch Chairmanship's food-for-thought paper, the OSCE undertook a process of bilateral consultations with all participants in the political settlement negotiations to develop an updated, more comprehensive food-for-thought paper. This paper points out key questions and possible solutions for basic issues such as mandate, composition of force – including the mix of troops, observers, and police – and command. The final draft of the paper was circulated just before the Brussels three-plus-two meeting. To date, no further action has been taken on the issue.

### *The Transdniestrian Referendum*

The adoption and implementation of the Moldovan and Ukrainian Prime Ministers' Joint Declaration served as a proximate cause or pretext for significant radicalization of the Transdniestrian position on agreeing to a special status within the Republic of Moldova. While Transdniestrian leaders gave lip service from 1992 to the basic principle that a political settlement would

involve Transdniestria's joining with the rest of Moldova, the Tiraspol leadership's behaviour in the political settlement process indicated that the basic aim was to preserve Transdniestria's *de facto* independence from Moldova. Leaders in Tiraspol perceived the Joint Declaration as a real threat to the region's stand-alone economic and governmental institutions. They loudly branded the joint Moldovan-Ukrainian action a violation of earlier agreements, and resisted any extension of Moldova's jurisdiction in any form on the left bank.

At the same time the opening of the Kosovo status negotiations and the referendum on independence in Montenegro provided new elements in the international debate over the status and future of the unrecognized entities in the former Soviet periphery. Transdniestrian leaders particularly welcomed Russian President Vladimir Putin's statement in early 2006 that the principles used in reaching a solution in Kosovo should be applicable universally. Smirnov and his cronies clearly believed international speculation that Kosovo would be granted independence and presumed this could be used to justify independence from Moldova and international recognition for Transdniestria.

During the spring of 2006, Transdniestrian leaders and government, sponsored socio-political organizations on the left bank conducted a well orchestrated campaign in favour of holding a referendum in the region on independence from Moldova. This campaign received support from some Russian State Duma deputies, institutes, and NGOs. When Transdniestrian negotiators raised the possibility of a referendum with the OSCE, Mission representatives responded that Tiraspol had conducted six similar referenda, and none of them had been accepted by the international community. The Mission noted that any prospective unilateral referendum would undoubtedly meet the same fate. When Smirnov raised the issue of a referendum in a meeting with OSCE Chairman-in-Office Karel de Gucht in Tiraspol on 1 June 2006, the Chairman-in-Office replied that OSCE would not send observers or recognize the referendum.

Nonetheless, the Tiraspol regime proceeded with the initiative. At the end of June, a congress of deputies of all levels provided the purported legislative and political basis for proceeding. The Transdniestrian Supreme Soviet debated and formally voted to go ahead with a referendum, which was not unexpected. However, the questions to be put to the population were a surprise: "Do you favour Transdniestria's present course towards independence and closer association with the Russian Federation?" and "Can you envision abandoning Transdniestria's independent course and joining the Republic of Moldova?" Most politicians, diplomats, and observers in the region fully expected that authorities in Tiraspol would produce a vote handily in favour of separation from Chişinău. However, significantly fewer expected such an explicit movement towards joining with Russia, nor was it clear what would be the longer-term implications for the region of this step.

The victory of the pro-independence line in the referendum is no great surprise. The announced majority – 97 per cent in favour – clearly smacks of old, Soviet-style electoral practices. Indeed, Moldovan observers reported that groups of pro-regime activists circulated through apartment buildings in Tiraspol, shaming and threatening those who had not voted early and “correctly”. While the theatrics of the referendum were successful, the effort did little to win international credibility and recognition.

The referendum complicates the negotiations between Chişinău and Tiraspol, but provides nothing useful in determining the basic outlines of an acceptable political settlement. Whatever the final agreement on status and the division of powers between the right and left banks, the infrastructures, economies, cultures, and populations are too closely intertwined to avoid dealing with one another. Even if separation were acceptable (which it is not), extensive, detailed negotiations would be necessary to settle questions of property, jurisdiction, and mutual relations. Unless overcome, the current high level of mutual distrust and hostility between the left and right bank ruling elites will make achieving a lasting political settlement exceedingly difficult, no matter what overall model might eventually be chosen.

Informal contacts between Moldovan and Transdnestrian negotiators continued episodically through the summer of 2006. However, these served mainly for early warning and crisis management, and made no effort at restarting movement towards a settlement. Explosions on Tiraspol public transit vehicles on 6 July and 11 August caused multiple casualties. While these were apparently the work of individuals, and not of political or terrorist groups, the tragic incidents did nothing to inspire public calm or stability.

As this is being written, efforts are once more underway on the part of the OSCE and other participants in the settlement process to renew the political settlement negotiations. However, even if the talks resume, prospects for progress are cloudy. The proverbial glass is both half-full and half-empty. There are a number of good papers on status and security questions on the table, which enjoy considerable international support and could lead to relatively early, workable agreements. Sadly, relations among the participants in the settlement talks, not just between Chişinău and Tiraspol, have polarized, and there is substantially less political will to make compromises and seek commonly acceptable solutions, and considerably less trust that such compromises and solutions will be respected and implemented.

In December 2006, the population of the left bank faces another election to choose who will be “President” for the next five years. If Smirnov wins a fourth term, as current expectations indicate, leaders in Tiraspol may find it possible to adopt a more constructive, negotiable position. Whatever the outcome, considerable work is ahead in restoring dialogue and reducing mistrust and hostility before real progress can be achieved.

## Activities of the OSCE Office in Baku: Moving Forward with a Common Aim

The OSCE team in Azerbaijan, this fast-developing, energy-rich southern Caucasus country, has six international experts in human rights law, rule of law, economics, and media. This core is supported by its twelve locally hired members, who bring in-depth expertise to the broad range of tasks outlined in the Office's mandate. Together, the team has the resources to support the host nation, Azerbaijan, in its quest to implement the principles and commitments prescribed for participating States of the OSCE. The Office is relatively young, having been established only some six years ago, and has been in a state of flux almost since its opening. This year has been no exception and can be described, without doubt, as having been by far the busiest, but also the most successful year so far.

In fulfilling its mandate to promote the implementation of OSCE principles and commitments in all dimensions, the Office has made rule of law and good governance its overall priorities. It has closely followed developments related to compliance with OSCE principles and commitments, commented on them, and maintained throughout a close and meaningful dialogue with relevant authorities.

The OSCE Office has striven to support implementation of those commitments by facilitating and co-ordinating activities, arranging pertinent events, and, most importantly, developing and implementing projects and working with the authorities to formulate concrete action plans specific.

From judicial reform, via diversification of the economy, civil society development, police education, environmental strategies, and gender equality, to support for the electoral process and addressing the threat of terrorism, the Office has offered its fullest support to Azerbaijan and developed a partnership which is proving its worth.

### *The Politico-Military Dimension*

#### *Support for Police Development*

In many countries and regions, including the Caucasus, criminal networks, corruption, and intimidation continue to obstruct progress in political and economic development. The new states have created new borders, but have not affected the ability of crime syndicates to engage in transnational criminal activity. The countries of Central Asia and the Caucasus are, to differing degrees, all confronted by the burgeoning global threats posed by drugs, trans-

national crime, and terrorism and their police services must be provided with internationally co-ordinated means of addressing them in an environment free from corruption.

Since 2003, the OSCE Office in Baku has been implementing its Police Assistance Programme, based on expert recommendations generated in the process of a comprehensive needs assessment.

In consultations with the Ministry of Interior of Azerbaijan, the Police School was selected as a main beneficiary of the Police Assistance Programme. The Police School is responsible for providing induction training to newly recruited police non-commissioned officers. It consists of four months of academic instruction and two months of on-the-job training at the police station, to which the recruit will, in most cases, subsequently be assigned. While the role of non-commissioned officers is mostly limited to neighbourhood foot patrol duty for crime prevention and criminal deterrence purposes, they are the ones who have the most exposure and daily contact with the public. The academic component covers 16 main areas of police work and runs for 588 academic hours. The professional staff of the Police School includes 49 police officers, instructors, and administrative staff, who annually provide induction training for up to 1,200 new recruits.

Police School facilities include 15 standard classrooms and six specialist classrooms, a gym, conference hall, library, and a separate dormitory building for the accommodation of cadets, as well as indoor and outdoor shooting ranges. When the programme first began, the main building was in an extreme state of disrepair. Concrete walls had large cracks, wooden floors were warped, staircases were crumbling, and ceilings showed extensive water damage, raising questions about their strength. Only a few classrooms had electrical outlets, and all were grim and poorly lit. There was neither heating nor air-conditioning in the classrooms and dormitories, which created a challenging environment given the local weather conditions (up to 40° C in the summer and as low as 0° C with 90 per cent humidity in the winter).

Provision of any technical support in terms of computers or other equipment or visual teaching aids did not make any sense until the more basic need for furniture was met, which, in turn, could only take place after at least minimal refurbishment and renovation of the premises and the creation of humane conditions for training and accommodation.

In an effort to convert the Police School into a functional institution with a modern and effective approach to training, the OSCE Office sponsored the most basic refurbishment and renovation of the premises, including a new roof, replacement of the heating system, provision of two portable wash-rooms for the sports area, together with the complete renovation of two floors in the teaching block of the school.

The renovation work was carried out during 2004 and 2005. Today, the school has furniture in all classrooms and, despite the continuing lack of

dormitory accommodation for students, teaching can now be undertaken in an atmosphere conducive to achieving good results.

The Office has already provided over 2,000 books, computers, and other equipment for the library at the heart of the new school.

A curriculum, based on modern principles of community policing, has been agreed upon with police officials. Teachers from the school also attended the first formal teacher-training course, run by the National Academies of the Czech Republic, which brought Azerbaijan's provision of police training up to European standards. Whilst this has been happening, the new course for induction training has been transformed into lesson plans and will be delivered by the newly-qualified school teaching staff, mentored by police trainers from the Czech Republic, in the summer of 2006.

Assistance has been provided to the City of Baku in the form of a project to install a central server and computer links to the central database, enabling officers from urban police stations to register and research crimes quickly and efficiently. This project is supplemented by a website for the public, which provides access to information about police services, the rights of the individual, and advice on a range of police-related topics. This service, the first of its kind, will be extended to rural districts as public access via internet cafes expands.

#### *Destruction of Toxic Missile Fuel and Remediation of Storage Sites*

*Melange* is not just a kind of milky Viennese coffee but also a highly unstable and explosive missile fuel component that urgently requires neutralization. After the collapse of the USSR, large stocks were left on the territory of the former Soviet republics. Azerbaijan, like many other OSCE participating States, is unable to solve this problem alone due to a lack of the necessary technical, material, and financial resources. In order to eliminate the potential threat to human health and the environment posed by *melange*, the Office supported the launch of a project aimed at providing technical and financial assistance for the remediation of two storage sites in Azerbaijan. An international expert group has visited Azerbaijan to identify a suitable way to resolve the problem of the sites and to determine the technical and financial requirements. The process will commence in July 2006.

#### *The Fight Against Terrorism*

The year 2005 saw the official launch of the Baku-Tbilisi-Ceyhan pipeline. This event coincided with the launch of the Office's project support the training of the staff of the Pipeline Protection Department by making them aware of the legal basis of their role and their responsibilities under international law. Similar rights and responsibilities training has also been pro-

vided as part of the municipality programme in rural centres throughout the country.

### *Rule of Law and Human Rights*

#### *Trial Monitoring*

In order to enhance implementation of human rights and the rule of law, OSCE participating States have committed themselves to opening their trials to international observers. With this in mind, a Trial Monitoring Programme for Azerbaijan was implemented jointly by the OSCE/ODIHR and the OSCE Office in Baku between November 2003 and November 2004. The programme also served as a follow-up activity to the presidential election of October 2003. That election sparked violent clashes in Baku between groups of demonstrators protesting election fraud. The violence led to some 600 detentions. Eventually, 125 persons, including many prominent leaders of opposition political parties, were brought to trial on criminal charges in connection with the violence. All of the trials were observed under the programme to assess their compliance with national law and international obligations. Azeri law grants the rights and protections required for the conduct of fair trials in compliance with international standards. However, the actual legal proceedings in these cases were not always conducted in a manner that would guarantee the implementation of these rights.

At the beginning of February, during the visit of Ambassador Christian Strohal, Director of ODIHR, to Baku, the findings of the programme – the *Trial Monitoring Report* – were presented to the government of Azerbaijan. During the discussions, a proposed agenda of dialogue between the OSCE and Azerbaijani authorities was agreed upon. It aimed at increasing co-operation on judicial and legal reform, and, in particular, at providing assistance in implementing recommendations made in the Trial Monitoring Report. The Office also participated in talks with senior government officials to discuss steps which might be taken to address issues raised by the report.

In the second phase of the Trial Monitoring Programme, the Office, in co-operation with ODIHR, conducted negotiations with government officials in Warsaw about the findings of the Trial Monitoring Report and the implementation of its recommendations.

#### *Support and Development of the Constitutional Court of Azerbaijan*

The OSCE Office continued to assist the court in developing rules of procedure for court management and administration after having supported it in 2004 in improving case administration related to individual constitutional complaints.

During the latter part of April and early May, the Office commissioned Judge Jakob Möller, former Secretary of the UN Commission on Human Rights and President of the Human Rights Commission within the Constitutional Court for Bosnia and Herzegovina, to carry out a two-week programme to assist the Constitutional Court of Azerbaijan in developing effective rules of procedure and to improve case administration related to individual constitutional complaints.

The Office also launched a wide-reaching and carefully structured educational programme designed to increase the ability of individuals to understand the process and independently make appeals to the Constitutional Court. Since the enactment, earlier in 2005, of legislative amendments that permit individuals to appeal directly to the Constitutional Court, a lack of public education in the regions on the process has left this course of action virtually unused. The Office, together with the Constitutional Court and a domestic implementing partner, commenced a programme that will empower members of the public to file individual complaints. The programme, consisting of a series of lectures and practical lessons, ran in all areas of the country. Additionally, a booklet outlining the particular requirements for constitutional complaints was prepared by local lawyers commissioned by the Office. This project was made possible thanks to extra-budgetary pledges from Germany.

#### *Professional Development of Judges and Prosecutors*

In April 2005, the OSCE Office organized three seminars for judges, prosecutors and defence counsels on “Challenges facing Transitional Societies in Implementing Fair Trial Standards”. Each group of legal practitioners was equally represented in the seminars, including senior lawyers and the newly appointed chairman of the Supreme Court. Two experts from the Legal System Monitoring Section of the OSCE Mission in Kosovo presented their experience drawn from the monitoring of the Kosovo justice system. The purpose of the seminars was to familiarize legal practitioners with the challenges encountered within Kosovo in meeting international fair trial standards, which may also be applicable in Azerbaijan. A further objective was to enable the participants to discuss the process of reforming the justice system in Azerbaijan and compare it with other countries or regions, such as those undergoing transition and reform in South-Eastern Europe.

#### *Transparency of the Activity of the Newly Established Bar Association*

The Office monitors the activity of the new Bar Association and the admission procedure for new members. It lobbied for the opening of the bar to allow admission of those lawyers who had been denied membership.

On 14 March 2005, the Office, together with the Baku office of the American Bar Association's Central European and Eurasian Law Initiative (CEELI), released a joint "Report on the Situation of the Lawyers in Azerbaijan". It highlights the critical situation of the legal profession in Azerbaijan, stresses the importance of the matter, and requests the government of Azerbaijan to address the issues.

The Office, together with CEELI, gave recommendations on the most serious issues requiring improvement, which included opening the Azerbaijani Collegium of Advocates to all practising lawyers, and allowing the repetition of the bar exam, particularly for those applicants who were prevented from participating because of unreasonable bureaucratic obstacles. The Office has expressed similar concerns to government officials many times in discussions, press statements, and in the above-mentioned Trial Monitoring Report. With this report, the Office provided a guide on how to significantly improve the situation of the legal profession within a short time.

On 16 and 17 June 2005, the Office hosted a well-attended conference, widely covered by the media, entitled "Advocacy: International Standards and Realities", on the workings of the Collegium and best practices in other European countries. Azerbaijani lawyers discussed shortcomings of the setup of the national bar, including admission procedures, and consulted participating heads of bar association from France, Georgia, Russia, Turkey, and Ukraine about their practices in addressing commonly shared problems.

The Presidential Administration submitted amendments to the Law on Advocates to the *Milli Majlis* (parliament) that were passed and went into effect on 6 August 2005. In short, all licensed lawyers whose rights to be a member of the Collegium have not been recognized, were accepted as members of the new Collegium by the Qualifications Commission without passing an examination. Although many problems remain, supporting a reform of the bar association had tangible success.

#### *Prison Monitoring*

The Office supported prison reform in the Republic of Azerbaijan by developing a monitoring mechanism and building the capacity of NGOs to carry out effective monitoring. It has also organized several prison visits, cooperating with other diplomatic missions, in particular, to assess the conditions of several prominent opposition leaders in prison, as well as following up other cases of concern.

#### *NGO Advocacy Training Programme*

The OSCE Office developed a programme designed to reach a broad audience of NGO staff members through workshop-style training. These training courses focused on a wide variety of advocacy skills and concepts including

how to conduct public advocacy campaigns and use strategic negotiation skills in national and international settings.

The Office supported a national NGO forum to conduct training courses in the regions within the framework of the broader project “Negotiation Skills for Political Managers”. The objective of the project was to build sustainable dialogue and collaboration among leading political actors in Azerbaijani society and to improve their skills in consensus building and conflict management. The project was carried out against the background of an apparent lack of ability of various political actors in Azerbaijan to conduct constructive dialogue and to reach a consensus on issues of particular importance for the society.

The training courses in the regions have been conducted by a group of trainers who themselves had been trained by the Consensus Building Institute of the United States. Each course is attended by around 20 representatives of political parties (including opposition and governing party representatives), NGO and community leaders, municipality officials, and local executive government employees. They receive training in negotiation, consensus building, team building, and conflict management skills through exposure to various interactive methods and role play simulations.

#### *Report on the NGO Registration Process*

On 11 May 2005, the OSCE Office released a report, prepared in co-operation with a domestic NGO, on the registration process of non-governmental organizations in Azerbaijan. The report identifies the difficulties applicants face in the NGO registration procedure, among them the worrying rejection of registration on irrelevant grounds, the occasional misinterpretation of legal provisions, the prolongation of the processing times without proper grounds, and the hampering of the registration process as a result of its centralization. The report offers concrete recommendations, including simplifying the registration procedure by limiting the number of documents required. It also recommends providing the applicants with broader opportunities to rectify shortcomings identified in their submissions during the registration process and suggests that the Ministry of Justice prepare a handout to describe the basic requirements for NGO registration.

The Ministry of Justice promised instant action to address the problems described in the report. The Office has observed that, since the publication of the report, most of the applicants mentioned in it and many others have been registered. One may therefore conclude that there has been gradual success in removing arbitrary obstacles blocking NGO activities.

### *Survey on Juvenile Justice*

On 28 June 2005, the NGO Alliance for Children's Rights released its report "Juvenile Justice in Azerbaijan". This is the first comprehensive publication written in Azerbaijan solely on the subject of juvenile justice. The report revealed that a confrontation with law enforcement and the justice system may have serious, negative, and unintentional consequences for children and their families. Its findings and recommendations provide a basis for the authorities to systematically address the shortcomings of the justice system in its treatment of juveniles. The OSCE Office commenced discussions with UNICEF, government officials, and the Alliance to initiate follow up activities on the recommendations of the report. Government officials have already declared their intention of considering the findings of the report in an effort to identify means of improving the treatment of children who are detained or are alleged to have committed offences.

### *Support for Setting up a Civil Registry*

In July and August 2005, an international expert, commissioned by the OSCE Office, made an assessment on the work needed by the authorities to set up a nationwide civil registry in Azerbaijan. The assessment entails data collection, situation analysis, data collation from existing equipment and service providers, and discussion of alternatives with the Ministry of Justice. The expert's work was considered necessary to help the authorities identify the financial and technical implications of the creation of the civil registry for next year's national budget. It is envisaged that the civil registry will become the main source of information for the voters' list and also serve as the primary demographic statistics authority for economic and policy decisions.

The Office has also produced a report outlining the basic requirements envisaged for such a system to be developed and specifies the main tasks which will be necessary for state agencies to undertake to establish the National Civil Registry and make it effective. The registry will be a major tool in maintaining demographic records for such things as personal identification and travel documentation, electoral rolls, and voter lists.

### *Co-organization of International Human Rights Defenders Meeting*

The Office co-funded and co-organized an international network meeting of Human Rights House in Baku, which took place from 7-9 September. Representatives from each of the eleven current member countries of Human Rights House met to determine strategies and priorities for the coming year. The aim was to enhance co-operation and collaboration amongst human rights oriented organizations, both governmental and non-governmental, and to strengthen the level of support and solidarity among them. The Azerbaijan

Human Rights House has been operating with a number of domestic NGOs for just over one year, making it one of the most recent members of the organization. Twenty-eight other human rights organizations from Azerbaijan, Georgia, Russia, Bosnia and Herzegovina, Croatia, Belarus, and across Africa participated in the event, which was opened by the UN Special Representative on Human Rights Defenders, Hina Jilani. The event provided a platform for increasing awareness of the human rights issues in advance of Azerbaijan's parliamentary elections in November.

#### *Second International Conference for Young Lawyers*

The OSCE Office co-funded the Second International Conference of Young Lawyers to be held in Azerbaijan, which took place from 10-12 September. Representatives of legal education societies and rule-of-law-oriented organizations from Belgium, Azerbaijan, the USA, Brazil, Cameroon, Italy, Georgia, Ukraine, Uzbekistan, Iran, Kyrgyzstan, Kazakhstan, Pakistan, Turkey, and Tajikistan were present. They gathered to discuss issues about the role of young lawyers and ways to improve the existing mechanisms for human rights protection. An additional aim of the conference was to build relationships among young lawyers from the countries represented and to promote a broader level of discussion on ways to enhance the professional development of legal practitioners and to disseminate good practice principles. The conference delegates supported the full integration of young Azerbaijani lawyers into the international community, a move which is designed to benefit the continuing development of the legal profession and to enhance international understanding.

#### *Democratization*

During 2005, the OSCE Office in Baku highlighted four priority areas in its democratization portfolio: anti-trafficking activities, political dialogue between the ruling and opposition parties, the November parliamentary elections, and gender issues.

#### *Political Dialogue*

In the priority area of support for further talks between the authorities and the opposition parties, the Office brought together members of political parties representing both the government and the opposition in May at a seminar entitled "Politics into the Future – Democracy in Azerbaijan" to discuss the basic values of democracy. The event marked the first in a series of "dialogue" meetings, introducing the prerequisites of a functioning democratic system and the definition of fundamental rules of democracy. All of the par-

ticipants agreed on a nine-point framework for the conduct of political parties. The second dialogue, entitled “Political Parties and Executive Authorities on Freedom of Assembly”, was held on 12 September. Senior representatives of eleven political parties, representing government as well as opposition views, together with six leaders of regional executive committees, and three high level representatives of the police and internal troops discussed issues such as locations for demonstrations and pickets in Baku and in the regions, and assemblies in the Autonomous Republic of Nakhichevan and in remote villages in Azerbaijan. The seminar concluded with three recommendations: (1) to develop a “culture of demonstration” and seek dialogue among all involved parties, including a representative of the OSCE in an advisory capacity, preferably before, during, and after every public event; (2) to draft a specific agreement before every meeting or picket, describing who will participate, where it will take place, how it will be managed, and when; (3) to hand over a list to the authorities with further suggestions for possible locations in Baku and the regions that correspond to the Law of the Republic of Azerbaijan on Freedom of Assembly. A follow-up meeting of the second dialogue between the authorities and the representatives of the *Azadliq* (Freedom) bloc on 29 September failed due to the government’s refusal to negotiate alternative locations for demonstrations and mass meetings in Baku. The OSCE Office will continue its dialogue efforts provided that the sides are willing to begin a constructive dialogue without preconditions.

#### *The Parliamentary Elections of 6 November*

During the course of 2005, the Office also paid much attention to the priority area of parliamentary elections. It supported the implementation of the revisions and specific recommendations to the Electoral Code and further reform of the legal framework for elections. Over the course of the year, the OSCE hosted several co-ordination meetings with the aim of co-ordinating activities to support the election process for the parliamentary elections. Participants representing participating States resident in Baku, the Council of Europe, and the International Foundation for Electoral Systems (IFES) discussed priorities that included voter education, candidate and political party training, and the need to support the establishment of a uniformly well trained observer group formed from the domestic NGO community. The latter would have required changes in current legislation precluding the participation of NGOs that receive more than 30 per cent of their funding from foreign sources. Yet this law was changed only a week before the Election Day.

In its efforts to educate voters on voter registration, checking voter lists, and taking part in the elections, the Office supported radio and TV spots produced by the Election Monitoring Centre. It also advocated freedom of speech and the use of live televised debates during the campaign period, which were periodically forbidden by the Central Election Commission on

spurious administrative grounds. With the aim of facilitating a genuinely transparent and free electoral process, the Office met with representatives of political parties and NGOs across the political spectrum and advocated implementing the Joint Recommendations on the Electoral Law and the Electoral Administration in Azerbaijan prepared by ODIHR and the Venice Commission of the Council of Europe. In 2006, the Office has worked to encourage parliamentarians to respect the rule of law and follow accountable legislative practices, support the development of parliamentary networks that share expertise and dialogue on legislative policy and practices, as well as build capacity for parliamentarians, political parties, and other political leaders on legislative processes.

#### *Gender Issues*

Another focus during 2005 was the increase in participation of women in the parliamentary elections as voters, activists, observers, and candidates. In cooperation with the media NGO *Internews*, the Office produced a set of feature stories and debates under the title “Women and Elections”, broadcast throughout the country until Election Day. The Office also started promoting gender-related laws, such as the law on domestic violence and the law on equality between men and women. This third priority area falls within the mandate of the Office to support the Government of Azerbaijan’s National Action Plan on Gender Equality. During the year, the Office hosted several gender round tables for international organizations, donors, and embassies in the areas of gender mainstreaming, gender balance, and relevant laws to coordinate efforts, share information, and prevent duplication. In 2006 and after the parliamentary elections, the Office has stated to create communication mechanisms for the activities of women parliamentarians, to network with gender-sensitive parliamentarians, and to foster dialogue on issues related to the advancement of women in order to promote gender equity, and ensure that both women and men parliamentarians take into consideration the rights and demands of women, based on a human rights perspective.

#### *Anti-Trafficking*

Trafficking in human beings is one of the most pressing and complex issues in the OSCE region and beyond. Every year, hundreds of thousands of women, children, and men are trafficked into conditions amounting to slavery. The illegal selling of and trafficking in organs is another growing problem.

Azerbaijan is primarily a country of origin and transit for women and children trafficked for the purpose of sexual exploitation. Internal trafficking of women and girls appears to be an increasing problem too. The OSCE Office supports the government of Azerbaijan in its effort to address this mod-

ern type of slavery by facilitating discussions and designing and implementing concrete projects.

Before the frosts of the harsh winter of 2005 had gone, the northern town of Guba was busy preparing itself for the opening of the first training centre for at-risk women, designed and funded by the Office. The project was unique in that it was specifically designed for young women from the rural villages in the area whose opportunities for advancement were slim. The Office, in its research of the phenomenon of trafficking in human beings, had determined that such women formed one of the most at-risk groups. Men from the rural villages have, over several years, been forced to seek work in the larger towns, leaving whole communities populated, for protracted periods, only by women. The traffickers find such situations easy to exploit but, by training those at risk in typing and secretarial skills, and with the active support of local municipal government, work can be provided and the threat reduced.

With the adoption of a new law on trafficking in human beings and amendments to the criminal code, the task of implementing the National Action Plan, which was adopted in 2004 with support from the Office, could commence in earnest. By October 2005, a building had been identified, situated within easy reach of the airport, which was designated for the purpose as the country's first secure accommodation for victims of trafficking and those at risk of being trafficked. The building's complete refurbishment, supported financially by the Ministry of Internal Affairs and the OSCE Office, was very near to completion by the end of the year. And together with partners from the IOM and the US Embassy, preparations have been made to train selected volunteers to work in the secure accommodation and on the country's toll free help line.

### *The Economic and Environmental Dimension*

#### *SME and Regional Economic Development*

Among the key challenges for the development of small and medium enterprises (SME) in the regions of Azerbaijan are the lack of access to business training and micro-finance loans. Women, in particular, face significant obstacles in obtaining business training and microloans, which impacts negatively on their ability to launch and increase business activity. For this reason, the Office has continued its focus on entrepreneurial training for women in the rural regions of Azerbaijan. Beginning in January, the Office funded the German Agency for Technical Co-operation (*Gesellschaft für Technische Zusammenarbeit*, GTZ) to provide entrepreneurial training to over 200 women in five districts of Azerbaijan. The training focused, in particular, on the creation of legal entities, overcoming problems associated with entrepre-

neurial activity in the country, and practical knowledge on managing businesses, obtaining credits and loans, accounting, and tax procedures.

Moreover, recognizing the lack of access to start-up capital for women in these regions, the Office further co-operated with GTZ to organize a business plan competition for the women who have successfully completed training courses over the past years. Prospective candidates, who have taken part in a series of training courses on developing business plans in accordance with the economic opportunities in their respective communities, gradually refine their business plans for the competition. Winners of the business plan competition received start-up money from a revolving fund to help facilitate the realization of their business plans.

#### *Good Governance/Anti-Corruption*

Allegedly, one of the key obstacles to the liberalization of a market economy and regional economic development in Azerbaijan is the pervasiveness of corruption throughout the country. The presence of corruption threatens the continued development of the Azerbaijani economy at a particularly critical juncture, with the expectation that large-scale revenues from the oil and gas sector will soon be realized. In support of the government's recently adopted programme to combat corruption, the Office sponsored a series of public awareness round tables and conferences with extra-budgetary financing from the permanent representation of France. In early 2005, the OSCE Office in Baku, in co-operation with the Azerbaijani Young Lawyers Union, began a series of public round tables in Baku and several regions to promote the new anti-corruption laws. A broad selection of representatives from government, civil society, and the business community participated in the round tables. The Office also organized a Conference on Best Practices on Combating Corruption with the participation of international experts from the Lithuanian Special Investigation Services and the Bulgarian Ministry of Internal Affairs. Jointly sponsored by the French and US Embassies, USAID, and CEELI, the conference highlighted a number of instruments including ministerial hot-lines, codes of conducts for ministries, freedom of access to information, and anti-corruption commissions. The Office also published and distributed an Azerbaijani-language version of the OSCE Handbook for Best Practices in Combating Corruption.

Beyond awareness building, the Office continued to assist the government in preparing key effective legislative and other measures to combat corruption, notably as a member of the Legislative Working Group of the Anti-Corruption Commission. The purpose of the Legislative Working Group is to draft new anti-corruption laws and to amend Azerbaijan's current laws to more effectively combat corruption. In particular, the Office worked on amending the ethics law to comply with international standards, and the drafting of a new conflicts of interest law and a corporate criminal liability law. Once these key

pieces of legislation have been adopted by parliament, they should significantly reduce the scope for corruption and improve possibilities for admonishing bad governance and corrupt practices.

#### *Environmental Public Awareness*

The Office continued its co-operation with the Aarhus Public Environmental Information Centre and the Ministry of Ecology and Natural Resources in Baku. Consisting of a library, internet, and conference room facilities, the Aarhus Centre provides equal and open access to any citizen or organization with an interest in environmental affairs. During 2005, the Aarhus Centre continued to be a hub of environmental NGO activity in Azerbaijan with an average of 75 visitors a week to the library and over 50 public meetings held in the conference room during this time. The Office also began preparations to establish a second Aarhus Centre in Ganja. This new centre will provide an important networking link on environmental affairs between the capital Baku and more remote, yet environmentally sensitive, regions of the country.

The Office recently began a year-long programme to develop the Green Pack multi-media environmental education programme for schoolchildren in Azerbaijan, which is co-sponsored by BP. The Office will work to develop learning modules for the Azerbaijan environmental context in the Azerbaijani language. The Office has continued to support the project in 2006 as project implementers train teachers and community leaders on how to integrate Green Pack<sup>1</sup> materials into the school curriculum and use them in their teaching.

The Office, in co-operation with BP, the International Finance Corporation, and the Eurasia Foundation continued its support of the Energy Bus initiative which raised public awareness of energy conservation and practical alternative energy solutions in rural communities in Azerbaijan during 2005. Despite its significant oil and gas reserves, which are currently under development, Azerbaijan still experiences chronic energy deficits in its rural regions, and this impacts upon sustained economic development and deforestation in these areas. Supporting the government of Azerbaijan's goals of promoting the use of renewable energy to address energy security needs, the Energy Bus uses a mobile truck and trailer containing models and information pertaining to energy conservation and low-cost alternative and renewable energy solutions for rural communities. Over the course of 2005, the Energy Bus visited approximately 150 villages and trained local communities on energy conservation and low-cost renewable energy technologies.

Finally, the OSCE Office continued its joint support for the OSCE/NATO South Caucasus River Monitoring Programme. Its purpose is to collect, analyse, and disseminate information on the fragile ecological state of water re-

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<sup>1</sup> The green Pack is a multi-media environmental education curriculum developed by the Regional Environmental Centre for Central and Eastern Europe (REC).

sources of the Kura-Araks system. Another key objective is to allow for the early detection of possible polluting agents and thereby serve as a de-escalation tool for tensions that might arise between bordering populations in the case of intentional or accidental pollution. In 2006, the Office contributed to the Project through the upgrading of the equipment of the "AzEcoLab" Physical Environment Research Centre. This has increased the capability of the local implementing partner to perform measurements of a wider range of pollutants and with an increased precision.

### *Outlook*

Since regaining independence almost 15 years ago, Azerbaijan has made an incomplete transition to democracy and market economics. The democratic process is nominally in place, but the cultural and institutional supports are still being developed. Democratic development is one of the main commitments Azerbaijan made to the OSCE and the international community in general. However, if the democratic reforms are to be successful, they should go hand in hand with economic reform. 2006 is the first year in which the real oil money is flowing into the State coffers. Properly used, petroleum funds can finance Azerbaijan's development. If the country's economic potential can be activated, ample public sector resources and strong economic opportunities can facilitate solutions to social problems and provide an economic underpinning to a viable democracy. The promotion of democratic principles, as well as greater transparency and participation, will be of decisive importance in ensuring the sustainability of Azerbaijan's transformation into a genuine democratic state. These issues will form the basis for the OSCE Office's activities in the years to come: supporting Azerbaijan in further promoting the implementation of OSCE principles and commitments by co-ordinating and organizing relevant events and by developing and carrying out corresponding projects.



## The Conflict over Nagorno-Karabakh: Causes, the Status of Negotiations, and Prospects<sup>1</sup>

Twelve years after the ceasefire of 1994, there has still been no final settlement of the Nagorno-Karabakh conflict. After all this time, several factors appear unchanged: The region is still home to economic blockades, and hundreds and thousands of refugees and internally displaced persons (IDPs) are waiting to return to their homes. The negotiations that began in 1992 under the auspices of the OSCE continue, while the ceasefire has proved stable, despite a worrying number of incidents and a high casualty rate at the Line of Contact.

Nonetheless, after a long period of stalemate in the peace process, the Minsk Group, the OSCE's mediating body, has, since 2004, once again succeeded in establishing an institutional negotiating mechanism between Armenia and Azerbaijan that has brought the opposed sides closer together. In 2006, hopes have focused on the possibility that the parties will reach a settlement during the current cycle of negotiation, and hopefully before the end of the year. This appears to be a matter of urgent necessity, as the Azerbaijani oil boom has already led to an arms race between the two countries, increasing the risk of a renewal of armed conflict over Nagorno-Karabakh in the coming years if the negotiations are not successful.

This article begins by discussing the structural causes of the conflict and the mediation process since 1992. It explores the reasons for its gaining momentum since 2004/2005 and analyses the current state of the process. Finally, it estimates the current prospects for settlement of the conflict.

### *Causes and Escalation of the Conflict*

While some causes of the conflict reach back to the pre-Soviet period, the majority are closely linked to the political, socio-economic, and administrative structures of the Soviet Union and the forces of dissolution in the USSR's final days.<sup>2</sup>

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1 The opinions expressed in this contribution reflect the personal views of the author alone. I am grateful to Dr Sabine Fischer from the EU Institute for Security Studies (EUISS), Paris. For help in researching materials, I would like to thank Hannah McGlue of the OSCE Secretariat, Vienna.

2 For a detailed analysis of the causes of the conflict, see: Rexane Dehdashti, *Internationale Organisationen als Vermittler in innerstaatlichen Konflikten. Die OSZE und der Berg Karabach-Konflikt* [International Organizations as Mediators in Intrastate Conflicts. The OSCE and the Nagorno-Karabakh Conflict], Frankfurt am Main 2000, pp. 98-123.

From early on, Soviet nationalities policy strengthened the importance of nationality in society and politics. It established a ethnic-primordial understanding of nation and ascribed this differentiating factor great importance for individuals' chances of political and social advancement. The hierarchical national-federal structure of the state and the fact that establishing autonomous territories, assigning them to particular Soviet republics, and determining their powers were generally determined by the centre alone – as with the assignment of Nagorno-Karabakh to Azerbaijan in 1921 – generated conflicts and disputes over competences between the autonomous territories and the republics of the Soviet Union in which they found themselves.

A look at developments towards the end of the Soviet Union shows that relatively “successful” secession movements came into being above all where national minorities were in possession of a federal territorial entity, such as the Karabakh Armenians in Azerbaijan, and the Abkhazians and South Ossetians in Georgia. Although these legal titles had so far generally been symbolic and decorative in character, in the break-up of the Soviet Union, these autonomous entities, with their demarcated territories, quasi-national administrative structures and organs, represented a framework that could easily be used by their titular nations to represent their political interests.

National historiographies also played a crucial role in the development of the conflict. Decades before matters escalated, Armenian and Azerbaijani historians were already carrying out intensive disputes on the history of Nagorno-Karabakh and the question of who had rightful jurisdiction over the territory. In line with the dominant Soviet view, this debate was based on an ethnic-primordial concept of nationhood, in which there was no room for political-participatory elements. Long before the outbreak of war, this created conflicts in the nation-building ideologies of the two peoples by invoking mutually exclusive claims to Nagorno-Karabakh.

As the conflict escalated, furthermore, each side tended to interpret events against the background of its view of 19th and early 20th century history. On the Armenian side, the matrix of interpretation was dominated by the narratives of “threat”, “annihilation”, “loss of homeland”, and the “necessity of resistance”. On the Azerbaijani side, the events around Nagorno-Karabakh activated the old fear of facing a powerful opponent with influential allies.

#### *The Socio-Economic Dimension: Discrimination Versus Social Envy*

Many Armenians and some of the literature claim that systematic socio-economic discrimination against Karabakh Armenians in the Azerbaijan SSR is one of the main causes of the desire for a transfer of sovereignty to the

union republic of Armenia. As a peripheral rural area, Nagorno-Karabakh was certainly characterized by economic underdevelopment. However, in this regard, it bore a close resemblance to other agricultural areas of Azerbaijan, which also suffered from such structural weakness. The identification of the Karabakh Armenians with socially advantaged sections of the population of neighbouring Armenia also seems to have led to conflict. Further frustration was also generated by the fact that the large Armenian minority in Azerbaijan was virtually unrepresented in Baku's political and administrative apparatus – which was modelled on Soviet nationalities policy, with its focus on the titular nation.

Also interesting in this regard are observations according to which social envy and economic frustration on the part of the Azeri lower classes appear to have played a role in riots that targeted Armenian residents of Baku and Sumgait.<sup>3</sup>

#### *Escalation of the Conflict: Political Dynamics and Moscow's Policy*

In 1987, building on similar Armenian initiatives that had been a regular occurrence in the Soviet Union since the 1960s, movements in Nagorno-Karabakh and the union republic of Armenia began to demand that the territory be transferred to the Armenian SSR. Massive riots targeting the Armenian inhabitants of Sumgait and Baku in February 1988, during which neither the security forces of the Azerbaijan SSR nor the central government intervened, were crucial for the escalation of the conflict.

Immediately following the riots, Gorbachev's government attempted to use a two-track strategy to de-escalate the conflict: by deploying repressive means against the Karabakh movement while simultaneously adopting an economic and social programme for the territory. Moscow categorically rejected a transfer of sovereignty in order to avoid creating a precedent that could be applied to similar tension-riven areas in the Soviet Union. The attempt to use economic assistance to end the conflict failed, partly because the escalation had already progressed too far, but partly also because Armenian complaints of economic maltreatment, while they helped to legitimate the calls for the transfer of sovereignty, did not touch the conflict's core. Moreover, Moscow's position as an intermediary increasingly became entangled with an instrumentalization of the events in order to combat the centrifugal endeavours of the developing Armenian national movement – but also, to some extent, the Azeri one – which impacted negatively on the effectiveness of its policy, as well as on its credibility as a mediator.

As the Soviet government in Moscow and the centralist party apparatus increasingly lost power, local Communist elites faced the need to cope with

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3 Cf. Eva-Maria Auch, "Ewiges Feuer" in Aserbaidschan. Ein Land zwischen Perestrojka, Bürgerkrieg und Unabhängigkeit ["Eternal Fire" in Azerbaijan. A Land Between Perestrojka, Civil War, and Independence], in: *Berichte des BiOST* 2/1992.

the virtual disappearance of institutional support from Moscow for their positions. In an attempt to create a local power base by following a zigzag course between unsuccessful repression and *rapprochement* with the national opposition in each territory, the national nomenklaturas increasingly assumed the populist and nationalist rhetoric of the opposition, thereby contributing to the escalation of the conflict.<sup>4</sup>

#### *The Consequences of the War: Lasting Enmity and Internationalization*

The war led to the hardening of mutually hostile group identities in both societies. Flight and displacement resulted in the nearly complete territorial segregation of the two peoples. The absence of social and economic contacts since the outbreak of the war has led to each side preserving a distorted, hateful image of the other. Mistrust, one-sided accusations of guilt, and equally one-sided adoption of the role of victim hamper constructive engagement with the conflict to this day.

The tendency towards internationalization that is found in so many intra-state conflicts is pronounced in the case of Nagorno-Karabakh. The search for allies by both sides during long periods of the conflict brought a powerful external dimension into play. The varied interests and relationship structures, economic and political activities, as well as sometimes contradictory mediation initiatives of external actors and neighbouring states such as Russia, Turkey, Iran, and the USA have influenced the frameworks and dynamics of negotiations to various degrees.

#### *Conflict Mediation under CSCE/OSCE Auspices*

Immediately after the collapse of the Soviet Union, the Karabakh conflict emerged as the most acute crisis in the region. In March 1992, it was decided that the CSCE should lead the international community's mediation efforts. On the assumption that a ceasefire could be negotiated quickly, the CSCE Chairman-in-Office was charged with organizing a peace conference. The conference was to be held in the Belarusian capital, Minsk, and eleven participating States were given the task of preparing it. The Minsk Group, as it was henceforth known, originally consisted of Armenia and Azerbaijan, Russia, Turkey, the USA, France, Germany, Czechoslovakia, Sweden, Belarus, and Italy. Apart from the replacement of Czechoslovakia by Finland, the composition of the group remains the same today. Established merely to prepare the peace conference, the constant postponement of the same meant that

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4 For further details, cf. Barbara Maier, Die Renaissance der Nation auf den Trümmern der Ideologie [The Renaissance of the National on the Ruins of Ideology], in: *Links* 258/1991, pp. 31-35.

the Minsk Group soon developed into the CSCE/OSCE's *de facto* negotiating forum on the conflict.

#### *OSCE Mediation Initiatives from 1992 to 1996*

Under Italian chairmanship from March 1992 until November 1993, the negotiations concentrated above all on establishing a ceasefire. The Minsk Group presented the parties with a range of operational timetables. By defining a series of mutual concessions aiming at cessation of hostilities, troop withdrawals, and the acceptance of CSCE observers, these were intended to commit the conflict parties to a ceasefire.

In December 1993, Sweden was placed in charge of the negotiating forum. In contrast to the Italian chairmanship – under which negotiations had generally taken place with the participation of all the members of the Minsk Group, including Armenia and Azerbaijan – Sweden focused more strongly on shuttle diplomacy and confidential conversations between the chair and the conflict parties.<sup>5</sup> The significance of the Minsk Group's plenary sessions receded into the background. Given the ongoing fighting, reaching a ceasefire agreement remained the top priority. However, it took major Armenian territorial gains to the east and north of Nagorno-Karabakh to bring about a turning point. Faced with the threat of further losses in the northwest of the country, Azerbaijan agreed to a ceasefire on 12 May 1994 – one that has remained in place to this day.

Thereafter, all the efforts of the Swedish chair were focused on consolidating the ceasefire, initiating discussions on the key issues of the conflict, and arranging confidence-building measures. The Swedish chair also argued in favour of deploying a CSCE peacekeeping force.

The first problems between the chair of the Minsk Group and Western members of the forum, on the one hand, and Russia, on the other, had already emerged during the Italian chairmanship. These now came clearly to the fore and, in the course of 1994, led to the emergence of two parallel – and increasingly rival – negotiating tracks. This situation had a negative effect on the negotiating process as it gave the conflict parties the opportunity to switch between the forums, and thus to escape any pressure they faced to make concessions.

At the CSCE's Budapest Summit in December 1994, the participating States decided that in future the Minsk Group would have two co-chairs, one of whom would always be Russian. In return, Moscow agreed to the deploy-

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5 During the Italian chairmanship, Armenian and Azeri representatives of Nagorno-Karabakh took part in many meetings of the Minsk Group as "interested parties". Later meetings of the Minsk Group were only attended by nine participants, i.e. without Armenia and Azerbaijan. Currently, the roughly twice-yearly meetings of the co-chairs with the six other states of the Minsk Group serve mainly to keep the latter informed on developments in the discussions and to request help if necessary. Nagorno-Karabakh is integrated into the peace process via discussions with the co-chairs in Stepanakert.

ment of a CSCE peacekeeping force under certain conditions in the event of the parties' agreeing on basic principles for the settlement of the conflict.

The compromise led to an improvement in relations within the Minsk Group, even if the conflicts within the forum were not completely resolved. However, other factors now began to take on greater significance in keeping the members at loggerheads: The growing importance of Azerbaijani oil and the related geo-economic goals of the mediating states and regional actors placed the interests of several Minsk Group member states in competition with each other.

The talks held under the Finish-Russian co-chairmanship from April 1995 until December 1996 aimed at negotiating a political framework agreement. With a few exceptions concerning humanitarian issues, little was achieved by the end of 1996.

*High Level Planning Group und Personal Representative of the Chairman-in-Office*

The High Level Planning Group (HLPG) was established in December 1994, following the adoption of the Budapest Summit Decision. Consisting of military experts, it was assigned the task of drawing up proposals for the deployment of OSCE peacekeeping forces in the region. The various plans and proposals were to cover all aspects of a likely operation, including the size and characteristics of the force, command and control, logistics, allocation of units and resources, and rules of engagement. Although the absence of a political agreement means that none of the proposals have yet been put into practice, the HLPG continues to exist, albeit with a reduced staff of experts.

In August 1995, the OSCE established the office of the Personal Representative of the Chairman-in-Office on the Conflict Dealt with by the OSCE Minsk Conference (PRCIO). Headquartered in Tbilisi, the PRCIO and his five field assistants travel regularly between Baku, Stepanakert, and Yerevan. His tasks include supporting the OSCE Chairman-in-Office, the co-chairs of the Minsk Group, and the HLPG in their efforts to mediate a conflict settlement and plan the deployment of an OSCE peacekeeping force, to monitor and report on the situation at the Line of Contact, and to help in the development and implementation of confidence-building and humanitarian measures.

The OSCE's Lisbon Summit in December 1996 thus marked a low point in the peace process: The critical words of Chairman-in-Office Flavio Cotti reflected the OSCE's great disappointment at the lack of progress, which the Chairmanship blamed on the partners' unwillingness to make "essential concessions and constructive proposals".<sup>6</sup> In the face of strong protests from Armenia, but with the support of all the other OSCE States, a statement of the

6 In his Declaration of 2 December, the Chairman-in-Office also stressed that: "Even if the OSCE feels obliged to continue its efforts in resolving the conflict, the Parties must make it clear in the future that the extensive engagement of the OSCE is justified [...] In the final analysis, it is the Parties themselves who must settle their conflict." Declaration of the Chairman-in-Office, Federal Councillor Flavio Cotti, OSCE Summit Meeting of Heads of State and Government, Lisbon, 2-3 December 1996, REF.S/123/96, 2 December 1996.

OSCE Chairman-in-Office was attached to the Lisbon Document, which asserts that the territorial integrity of Azerbaijan and the highest degree of self-rule for Nagorno-Karabakh within Azerbaijan were recommended as the guiding principles for the settlement of the conflict.<sup>7</sup> This represented an almost traumatic development for the Armenian side, while Azerbaijan considered the international community to have endorsed its position. Immediately after Lisbon, the contradictions were more apparent than before.

*Mediation Initiatives under the Trilateral Chairmanship 1997-1998*

A trilateral chairmanship has existed since the start of 1997, comprising Russia, France, and the USA. On account of their diverse political and economic relations with Armenia and Azerbaijan, the co-chairs are key actors and have an unsurpassed collective potential influence. From a certain perspective, this combination appeared so ideal that no further rotation of the chairmanship has since taken place.

In 1997, within a short space of time, the co-chairs produced two peace plans that aimed at a multi-step process. While Baku expressed its agreement in principle, however, there was a split on the Armenian side: Although President Levon Ter-Petrossian accepted the proposal as a basis for negotiation, it was rejected by the opposition and parts of the government camp in Armenia, together with the leadership in Nagorno-Karabakh.<sup>8</sup> This led to the collapse of Ter-Petrossian's government and a dramatic breakdown of the peace plan. Armenia's new president was the incumbent prime minister, Robert Kocharian, who had been "president" of Nagorno-Karabakh until 1997. While Kocharian was considered to be a decisive supporter of the independence of the region from Azerbaijan, the fact that he came from Nagorno-Karabakh gave him a clear advantage over his predecessor when it came to the possibility of domestically justifying any compromise.

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7 Cf. Organization for Security and Co-operation in Europe, Lisbon Summit 1996, Lisbon Document 1996, Lisbon 1996, DOC.S/1/96, 3 December 1996, Annex 1: Statement of the Chairman-in-Office and Annex 2: Statement of the Delegation of Armenia, reprinted in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1997*, Baden-Baden 1998, pp. 419-446, here: pp. 430-431.

8 In an impressively candid statement, Levon Ter-Petrossian argued insistently that the lack of a settlement would lead to a weakening of the Armenian negotiating position and ultimately block the country's social and economic development. Cf. Levon Ter-Petrossian, War or Peace? Time for Thoughtfulness, in: *Armenpress News Agency*, 3 November 1997.

*The Key Questions of the Conflict: Package Solution or Step-by-Step Settlement?*

The key questions of the conflict largely concern Nagorno-Karabakh's political status, the nature of security guarantees following Armenia's withdrawal from the occupied territories, the future of the Lachin Corridor, and the return of the refugees and IDPs to their homeland.

With respect to the future status of Nagorno-Karabakh, Baku, appealing to the international legal principle of the territorial integrity of states, has always stressed that the region belongs to Azerbaijan. At the same time, however, Azerbaijan has repeatedly signalled its readiness to allow Nagorno-Karabakh the "highest degree of autonomy" without, however, publicly giving details of what this means. The Armenian side, on the other hand, appeals to the right to national self-determination and demands independence for the territory or its incorporation into the state of Armenia.

The bulk of the occupied territories to the west, east, and south of Nagorno-Karabakh has been uninhabited since the flight of the Azeri population and is considered by the Armenian side to be a "security belt" and a bargaining chip for use in the negotiations over the status and security of Nagorno-Karabakh.<sup>9</sup> An exception is made for the Lachin Corridor, which connects Nagorno-Karabakh with Armenia. The Armenian side considers the need to retain this area a vital security interest.

The question of the return of refugees and IDPs focuses, in the first instance, on the return of ethnic Azeri refugees to the occupied territories, and the possibility of return to areas of Nagorno-Karabakh itself that were formerly settled by Azeris, the city of Shusha, in particular.<sup>10</sup> The Armenian side demands the return of Armenian refugees to areas near Nagorno-Karabakh which used to have a high proportion of Armenians, especially near to Shahumian.<sup>11</sup>

Since 1994, two alternative options for resolution have emerged: the first, dubbed the *package solution*, seeks to discuss all the key issues until the conflict parties can accept the results as a single package. By contrast, the *step-by-step solution* focuses on the process and aims to resolve the problems one by one, with some of the most important being left until later. The Armenian side believes that its interests are best represented by the package-based approach, which aims to deal simultaneously with withdrawal from the occupied territories and the questions of security and status. For its part, Azerbaijan supports a step-by-step approach, stressing that the status question can only be resolved following the return of the occupied territories.

In the course of the negotiations, various mediators have successively pursued different strategies: The Swedish chairmanship opted to seek a step-by-step solution but ultimately failed when the Armenian side refused to unilaterally give up its advantageous negotiating position by withdrawing from the occupied territories before negotiations on the status question had even started. In contrast, the Finnish-Russian co-chairmanship favoured the package approach. The trilateral chairmanship has so far made proposals oriented towards both the step-by-step approach and the package approach.

9 For the remainder of the text, these shall be referred to as the "occupied territories".

10 The right to return to the occupied territories is not disputed by the Armenian side, although the necessity of prior confidence building is stressed with regard to Nagorno-Karabakh. It is estimated that some 40-60,000 ethnic Azeris fled from Nagorno-Karabakh.

11 The war created hundreds of thousands of refugees and IDPs. An estimated 200,000 ethnic Azeris fled from Armenia and probably around 700,000 from the occupied territories and Nagorno-Karabakh. Estimates of the numbers of Armenian refugees/IDPs range between 270,000 and 310,000. By far the largest proportion fled from Azerbaijan, while a smaller number came from areas of Armenia near the border that were affected by the war.

Finally, in November 1998, the three co-chairs of the Minsk Group presented their “common state” solution.<sup>12</sup> The proposal, which aimed to resolve all outstanding questions in a single package, was however rejected by Azerbaijan. After two years of intensive but fruitless effort, the co-chairs initially took a back seat from distributing further proposals to the conflict parties.<sup>13</sup>

#### *Bilateral Presidential Discussions since and the Key West Opportunity 1999-2001*

The peace process only came back to life when the Armenian and Azerbaijani presidents held face-to-face talks on the occasion of a NATO summit in Washington in April 1999. In the following years, 17 further meetings took place between the two presidents with the involvement of the co-chairmen. On the basis of the progress being made in the discussions, in one of the first major foreign policy decisions of the new Bush administration, US Secretary of State Colin Powell invited the presidents to continue their negotiations in Key West, Florida, in April 2001. At first, the positive response of the co-chairs following the conclusion of the Key West discussions made it appear that the high expectations of the international community were going to be fulfilled. However, the momentum was lost soon thereafter and the “decisive” round of negotiations that had been planned for June in Geneva was cancelled.<sup>14</sup> Looking back, US co-chair Rudolf Perina stressed that the parties were “unbelievably close” to a resolution at this time.<sup>15</sup>

It appears that the collapse of the Key West talks can be attributed in large part to the uncertainty on the part of the two presidents that they were able to make the domestic case for the proposed settlement in the face of contrary public opinion and opposition in their own governments.

Thereafter, the serious illness of the Azerbaijani President Heydar Aliiev, the preparations and holding of presidential elections in Azerbaijan, presidential and parliamentary elections in Armenia in 2003, and the need for

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12 According to the media reports, while this plan foresaw Nagorno-Karabakh remaining a *de jure* part of Azerbaijan, it was also to be granted *de facto* independence, a constitution, armed forces, and a right to veto laws passed by the Central government in Baku that relate to Nagorno-Karabakh. Cf. Liz Fuller, OSCE Karabakh Peace Proposal Leaked, in: *RFE/RL Newslines*, 21 February 2001.

13 Cf. United States Mission to the OSCE/U.S. Department of State, Washington D.C., *Key West Background Sheet*, 3 April 2001.

14 Cf. Emil Danielyan, Parties, Mediators Still Hope for Karabakh Breakthrough, in: *RFE/RL Newslines*, 18 June 2001.

15 Cf. According to reports, the Key West discussions considered horizontal and confederative relations between Azerbaijan and Nagorno-Karabakh and a far-reaching legitimization of relations between Armenia and Nagorno-Karabakh, including a connecting corridor. In exchange, Baku was to receive a corridor connecting it to Nakhichevan through the southern Armenian district of Meghri. This would have – at the very least – severely curtailed Armenia’s previously unimpeded access to Iran, which Armenia saw as vital. Cf. *ibid*; cf. also Emil Danielyan, Karabakh Peace Process Again in Limbo, in: *Eurasia Daily Monitor* 53/2005, 17 March 2005; International Crisis Group, *Nagorno-Karabakh: A Plan for Peace*, Europe Report No. 167, 11 October 2005, p. 14.

the new leader in Baku, Ilham Aliiev, to consolidate his domestic position led to a long period of stagnation in the peace process.

#### *The Prague Process 2004*

In April 2004, the co-chairmen of the Minsk Group managed to initiate what has come to be known as the “Prague Process”. This was the name given to meetings between the foreign ministers of Armenia and Azerbaijan with the co-chairmen, which have taken place regularly ever since. The process also provided a framework for the Armenian and Azerbaijani presidents to hold several conversations when both were attending international summit meetings. In 2005, there was a gradual move towards more strongly focused negotiations.

The initiative launched by Azerbaijan at the UN General Assembly in November 2004 to adopt a resolution to identify and condemn a systematic Armenian policy of settlement in the occupied territories, the OSCE fact-finding mission in these territories in January to February 2005, and the parliamentary elections in Azerbaijan and constitutional referendum in Armenia in November 2005 interrupted the process for several months in each case.

The mediation process restarted in December 2005. A positive signal was given by the visit of the OSCE High Level Planning Group to the region from December 2005 to January 2006. This served to gather up-to-date information in connection with the Organization’s ongoing plans to deploy peacekeeping forces. It was noteworthy inasmuch as it was the first mission of its kind since 1997 to win the approval of all parties.

#### *A False Dawn: The Presidential Summits in Rambouillet and Bucharest 2006*

As a result of the positive developments in the Prague Process, the co-chairs organized a meeting of the presidents at Rambouillet near Paris on 10 to 11 February 2006. Although held on a far smaller scale than the Key West talks, international observers invested them with a similar level of hope.

The negotiations also featured a degree of urgency: In the preceding months, mediators and observers had repeatedly stressed the necessity of rapidly reaching an agreement on important questions, as it could be difficult to achieve necessary but domestically difficult-to-sell compromises once politicians start to focus on preparations for crucial elections at the end of 2006: In May 2007 and February 2008, Armenia is holding parliamentary and presidential elections, and the Azerbaijan parliamentary elections are due in October 2008.

The hope that the presidents would agree on basic principles of a resolution at Rambouillet was not fulfilled. In the attempt to give the process a second chance, the co-chairmen organized a further meeting between the presidents, in the run-up to which they undertook highly intensive diplomatic

activities and other persuasive efforts with the support of high representatives of their countries.<sup>16</sup> Nonetheless, the meeting between the presidents and foreign ministers at the summit meeting of the Black Sea Forum for Dialogue and Partnership in Bucharest on 4 and 5 June 2006 also remained without results.

The proposal made to the presidents at Rambouillet and Bucharest was that agreement should be sought on key fundamental principles, on whose basis a comprehensive settlement could be developed and agreed at some later date.<sup>17</sup> The proposal encompasses Armenian withdrawal from the bulk of the occupied territories, and the subsequent return of the Azeri refugees. Specific modalities were proposed for the districts of Lachin and Kalbajar, which lie between Armenia and Nagorno-Karabakh: They were to be demilitarized, but their return is to be dealt with at a later date. The proposal included the creation of a corridor between Armenia and Nagorno-Karabakh. The status of Nagorno-Karabakh was to be determined in a referendum, whose modalities were to be negotiated at a point in the future. Until then, Nagorno-Karabakh would remain legally part of Azerbaijan, but would also be granted an interim status that would allow the provision of international aid to the region. The stationing of international peacekeeping forces, bilateral security guarantees, and mutual assurances between the conflict parties that they would refrain from using or threatening to use force were intended to underpin the agreement.

In the view of the co-chairs, agreeing on these fundamental principles would enable immediate international assistance with demining, rebuilding infrastructure for refugees and IDPs returning to the occupied territories given back to Azerbaijan, and for Nagorno-Karabakh. It is also likely that agreement would smooth the way to a reorientation of Turkish-Armenian relations and hence to the lifting of all blockades.

To some extent, the proposal represents a combination of the step-by-step and package approaches: While agreement on the various elements is to occur concurrently, the elements themselves are to be implemented consecutively. This also applies to the status issue. While the transitional period for Nagorno-Karabakh may admittedly last for many years, an internationally recognized interim status and an agreement to determine the ultimate status

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16 From 23 to 25 May, the co-chairmen, together with Deputy Russian Foreign Minister Grigory Karasin, US Assistant Secretary of State Daniel Fried, and Ambassador Pierre Morel of France, traveled to the region in an attempt to urge the parties to reach a compromise. According to reports, both the French and US presidents appealed – in person or in writing – to the parties to take advantage of the opportunity to reach an agreement. Cf. Armenian, Azerbaijani Presidents to meet in Bucharest, in: *RFE/RL Caucasus Report* 19/2006, 2 June 2006.

17 The following information is drawn from a joint declaration by the co-chairs, cf. *Statement by the Minsk Group Co-Chairs*, OSCE Press Release, Moscow, 3 July 2006, as well as interviews with the US co-chairman, Matthew Bryza, cf. U.S. Says Aliyev, Kocharian Must Show “Political Will”, in: *RFE/RL News & Analysis*, 23 June 2006, and with the Armenian Foreign Minister, Vartan Oskanian, cf. Armenian Foreign Minister Elucidates Karabakh “Principles”, in: *RFE/RL Newswire*, 30 June 2006.

by means of a referendum would mean that an important principle decision had been made – one that largely meets Armenian demands for occupied land to only be returned once the status question has been settled. The co-chairs themselves described their proposal appositely as a “phased-package” approach.

In their public statements, the Armenian and Azerbaijani chief negotiators cited two areas in particular as barriers to an agreement: the question of the Kelbajar district, which, like Lachin, Yerevan wishes not to return until after the referendum, but which Baku demands should be returned along with the other territories<sup>18</sup> and the modalities of the proposed referendum, namely its timing and the scope of participation.

While the content of settlement proposals made in the course of the negotiations had so far been treated as highly confidential, following the failure of the Bucharest Summit, the co-chairs presented details of their proposals to the public for the first time. In a joint declaration of 3 July, they stressed that, in their opinion, the latest proposal represented the best possible opportunity for a fair and sustainable resolution of the conflict. They emphasized in unusually unambiguous terms that neither the continuation of the intensive mediating activities of the past months nor the elaboration by them of alternative suggestions at this point in time was expedient. Rather, a point had been reached at which Armenian and Azerbaijani leaders needed to demonstrate political will and initiative to reach a breakthrough in the peace process. The co-chairs would therefore initially withdraw. They would be ready to re-engage and help in concluding an agreement as soon as the parties themselves signalled that they were ready.<sup>19</sup>

It’s really up to the presidents now to decide whether or not they want to take the politically difficult and challenging decisions that are critical to bringing the framework agreement home. So we’re giving them some space, and we want them to demonstrate that they really do have the political will to take these next difficult steps [...] We’re encouraging them, we’re nudging them by taking a step back.<sup>20</sup>

Following the failure of the presidents’ meetings, which had so raised international expectations, with this statement, the co-chairs succeeded in transferring responsibility for further efforts to the parties themselves, instead of being held responsible by the parties for the lack of success in negotiations, as had frequently occurred before. At the same time, the parties were publicly called upon to take the initiative to restart negotiations.

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18 Statement of Armenian Foreign Minister Oskanian as quoted in: US Embassy Yerevan, *Media Review*, 30 June 2006; Liz Fuller, Nagorno-Karabakh: Mediators Take the Process Public, in: *RFE/RL News & Analysis*, 30 June 2006.

19 Cf. *Statement by the Minsk Group Co-Chairs*, cited above (Note 17).

20 Interview with the US co-chair Matthew Bryza, cited above (Note 17).

### *Analysis and Assessment*

The Prague Process and the accompanying progress made in the peace process took place against the background of the changing conditions in the region. Especially since Key West, a number of developments have taken place that could be expected to encourage the conflict parties to see that compromise was in their interest on the basis of cost-benefit analysis.

#### *Changing Parameters in the Region*

One of the most important new and influential factors in the region is the oil boom in Azerbaijan. The oil pipeline from Baku via Tbilisi to the Turkish Mediterranean port of Ceyhan was brought on-line in May 2005. The pipeline brings Azerbaijan a great deal of revenue while also strengthening its self-assurance as a favoured partner for international investment and a future regional economic power. Since the pipeline opened, the Azerbaijani leadership has publicly announced its intention to invest a large proportion of the oil revenues in the military and calls attention to its "legitimate right" to "free" Azerbaijani sovereign territory using military means if necessary.<sup>21</sup> Azerbaijan had indeed already increased military spending by 51 per cent in 2005. An additional doubling to 600 million US dollars took place in 2006, and an increase to one billion US dollars was announced for 2007. Although the Azerbaijani army is still considered relatively weak, this development has still been enough to initiate an arms race with Armenia. Armenia raised its arms budget by 22.5 per cent in 2006, at the expense of urgently necessary investments in other areas.<sup>22</sup> A further increase to 228 million US dollars is planned for 2007, corresponding to nearly 18 per cent of that country's entire budget. Still, it will be effectively impossible for Armenia to raise nearly as much money for military expenditure as Azerbaijan, and this entails a risk of an increasing deterioration of the Armenian negotiating position.

The construction of oil pipelines and transport routes such as the Baku-Tbilisi-Ceyhan oil pipeline, the gas pipeline from Baku via Tbilisi to Erzurum, and the rail link from Kars in Turkey to Akhalkali in Georgia, the construction of which is due to commence in late 2006, and which will join up the rail networks of Azerbaijan, Georgia, and Turkey, have raised the importance of the South Caucasus as an energy supplier and transit region. The

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21 For one of numerous such examples, cf. the statement by President Aliiev in June 2006, in which he argued that the failure of international mediation had forced him to change his policy. Now, he said, he would reclaim Nagorno-Karabakh "by whatever means it takes". Cf. Azerbaijan's Aliyev Says Karabakh Talks "Hopeless", in: *RFE/RL News & Analysis*, 23 June 2006.

22 For details of the figures for military expenditure given in this paragraph, cf. *SIPRI Yearbook 2006, Armaments, Disarmaments and International Security*, Oxford 2006, p. 321 and p. 341; Vicken Cheterian, Uncontested ruler of Azerbaijan, in: *Le Monde Diplomatique*, 10 February 2006; Associated Press, *Armenia's Parliament on Wednesday passed a 2007 budget with a deficit equivalent to US\$155 million*, 29 November 2006.

transport routes in planning or completed are considered a foundation for the development of a new East-West transport corridor for trade between Asia and Europe. Armenia is excluded from these key developments. There has been increased Armenian-Iranian co-operation in this area in recent years, such as in the gas pipeline currently under construction from Tabriz in Iran to Meghri in Armenia, which should enable the future import of gas from Iran and Turkmenistan. Nonetheless, it is to be expected that Armenia's long-term trajectory, if there is no resolution to the conflict, will see it slip ever more towards the periphery of regional developments.

There have also been changes in the role of external actors in the Nagorno-Karabakh conflict.

The terrorist attacks of 11 September 2001 prompted the USA, in particular, to reconceptualize its policy towards the region to make it both considerably more active and increasingly oriented towards energy- and security-policy considerations.<sup>23</sup> For Washington, which aims to diversify its sources of oil, the Caspian Sea region has grown in overall importance as an alternative supplier of energy to OPEC. At the same time, the significance of the South Caucasus in terms of security has risen in connection with the fight against international terrorism. Since then, threats emanating from the "frozen conflicts" and territories largely outside the reach of government control are taken more seriously, i.e. the illegal transfer of money, drug and arms smuggling, and the possible use of these regions as safe havens for terrorists. This is accompanied by a growing involvement in conflict resolution and a willingness to engage more intensively and insistently with the conflict parties.

With some delay, the EU has also come in recent years to define diversifying its energy supply and increasing energy security as vital interests with respect to the South Caucasus. At the same time, the EU's eastward enlargement and the start of accession negotiations with Turkey have brought the South Caucasus geographically closer to the EU. The inclusion of the region in the 2004 European Neighbourhood Policy (ENP), the appointment of an EU Special Representative for the South Caucasus in 2003, and the strengthening of his mandate in view of the region's conflicts in 2006 demonstrate a significantly more active involvement in the region on the part of the EU.

A transformation can also be seen in Russian policy towards Armenia and Azerbaijan. In comparison to the 1990s, there has been a shift from a policy determined by geopolitical competition and focused on preserving hegemony, to one defined more strongly by economic factors. Against the background of an intensified strategic partnership with Armenia, Moscow has also built up its co-operative relations with Azerbaijan in recent years. With

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23 Cf. Brenda Shaffer, US Policy, in: *The South Caucasus, A Challenge for the EU*, Chaillot Paper No. 65, Paris 2003, pp. 53-62; Brenda Shaffer: A Caspian Alternative to OPEC, in: *The Wall Street Journal*, 11 July 2001; U.S. Says Aliyev, Kocharian Must Show "Political Will", cited above (Note 17).

regard to energy issues, among other fields, both co-operative and competitive structures can be observed to obtain between Russia and Azerbaijan (which is one of the GUAM states). Political antagonisms between them include the issue how to deal with the “frozen conflicts” and the role of the West in the region. All in all, thanks to its increasingly diversified range of interests, Moscow, although it continues to have vital interests in the region and to strive to limit Western influence, is taking a more pragmatic course with regard to Azerbaijan, in which it increasingly makes use of economic and diplomatic instruments.

All in all, and despite the continued existence of ambiguities, the external actors appear to be currently playing a more positive role than in earlier phases of the Nagorno-Karabakh conflict.<sup>24</sup> What remains problematic is that the nature of these actors’ relations to the conflict parties may contribute to preserving the current alignment of forces and thus to postponing a resolution. Examples of this could include Turkey’s one-sided relations with Azerbaijan and its blockade of Armenia. To some extent, external actors also benefit from the existence of the conflict. The current situation provides Iran, for instance, with better opportunities to counteract its international isolation and expand its relations with Armenia. Thus, for example, the expansion of the “North-South Transport Corridor” is facilitated by the fact that Armenia, with blockades to the east and west, has no alternative but to expand its co-operative relations to the north and the south.

However, although the meshwork of external relations contributes to the stagnation of the peace process, it does not amount to a deliberate policy to thwart a settlement. Rather, it appears that, despite the ongoing existence of contradictions and competing interests in the region, Nagorno-Karabakh is one of those areas in which key actors such as Russia, the USA, and the EU are displaying an increasing willingness to co-operate. The three co-chairs of the Minsk Group constantly and unanimously stress their positive co-operation. While the three co-chairing countries work visibly together in the trilateral framework to achieve a settlement of the conflict, they tend to make use of “softer” instruments, i.e. persuasion, political pressure, canvassing for support from other actors, and issuing joint statements. An example of this is the declaration made by the G8 states on 17 July 2006. The declaration supports the work of the Minsk co-chairs, stresses the necessity of agreement being reached on the basic principles of a peaceful solution before the end of 2006, and calls upon the conflict parties to prepare their societies for peace.

There has been no genuine “power mediation”, e.g. via the deliberate and sustained application of sanctions and incentives, probably partly as a result of the interest of the co-chair states in retaining constructive relations with both Armenia and Azerbaijan.

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24 For a detailed discussion of the role of external actors up to 1998, cf. Dehdashti, cited above (Note 2), pp. 283-353.

The current framework conditions could also change as a result of a further escalation in the dispute over Iran's nuclear programme. If there is no resolution to this crisis, it could result in strong international pressure being placed on Armenia and Azerbaijan to join a future sanctions regime against Teheran.<sup>25</sup> While this would contradict the economic and political interests of *both* states, which value their constructive relations with their southern neighbour, ultimately, however, Armenia would be far more seriously affected, as the longer-term blockades affecting it make it highly dependent on its links with Iran.

*Rambouillet and Bucharest: The Issues of "Ripeness" and Timing*

The basic principles discussed at Rambouillet and Bucharest are part of a balanced and workable proposal that goes towards meeting the key interests of both sides and is capable of overcoming not only the contradictions between them but also the domestic restrictions hampering both conflict parties. The fact that elections are due in 2007 and 2008 created an atmosphere of urgency during the meetings of the two presidents. All parties were aware that the failure of the talks would lead to a deterioration of negotiating conditions for a considerable length of time and that they were not likely to improve before 2009.

Following the two rounds of discussions, it was stressed several times that the parties had never been so close to a settlement.<sup>26</sup> (Key West may have been the exception.) Apart from some questions of content, three factors appear to have been decisive for the failure of negotiations in Rambouillet and Bucharest:

- Both presidents were uncertain as to whether they will be able to sell a compromise domestically and survive undamaged.
- Azerbaijan's high oil revenues mean it is likely to be in a significantly stronger negotiating position in a few years.
- Armenia interpreted the establishment of an independent Montenegro and developments in the Kosovo question as providing momentum for the Karabakh Armenians' claims for independence.

In 2006, just as in 1998 and 2001, one of the main issues blocking a resolution of the conflict has been the fear on the part of the Armenian and Azerbaijani negotiators of an unwillingness to compromise in their own societies. The two governments have so far undertaken virtually nothing to prepare their populations for the necessity of concessions. On the contrary, both gov-

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25 Cf. Richard Giragosian, Trouble in the Neighborhood: A Look at Armenia's Place in the Geopolitics of Regional Conflict, in: *Armenia Now* 21/2006.

26 Cf., for example, the comments of US co-chair Matthew Bryza in: Peace Talks not Deadlocked Despite Exhausted Mediating Efforts, in: *Today.Az*, 10 July 2006.

ernments and oppositions have regularly made use of the conflict to raise their domestic profile. Populations that have for years experienced a public discourse in which maximal goals are seen as achievable and compromise is considered treasonous, combined with marginalized domestic oppositions that would in all likelihood be prepared – as would perhaps some political rivals from within the governing camp – to make use of this fact for their own advantage if a settlement were reached, make dealmaking a risky undertaking for the presidents and ultimately restrict their room to manoeuvre quite considerably. This problem is exacerbated by general legitimation difficulties suffered by leaderships that tend towards the authoritarian. In this regard, the fall of President Ter-Petrossian in 1998, caused in large part by his willingness to compromise in the negotiations, continues to cast its shadow.

The declared intention of the Azerbaijani government to invest much of its oil revenues in the coming years in the military and to reconquer the occupied territories using force if necessary has already been discussed. Even if the Azerbaijani leadership is quite aware that a war – in all likelihood a long one – would entail major problems for the country's investment climate, this does not mean that the search for a solution is being performed with any urgency in Baku, at least at present. On the contrary, from the Azerbaijani perspective, it seems reasonable to expect that in a few years, it will be possible to successfully translate improvements in the Azeri position into gains in the negotiations.

According to the theorist of mediation I. William Zartman, conflicts can be considered “ripe” for resolution when both conflict parties find themselves facing a “mutually hurting stalemate” – a deadlock that hurts them on an ongoing basis and they are unlikely to be able to bend to their advantage via confrontational and unilateral actions in the foreseeable future. In such a situation, an atmosphere of urgency strengthens both parties' willingness to work towards a settlement.<sup>27</sup>

This thesis does possess explanatory power in the current situation, as a closer examination of the context casts doubt upon whether the prerequisites for conflict “ripeness” have been met. It seems that current developments have mostly placed one party, namely Armenia, under significant pressure, while Azerbaijan can still assume that further waiting will strengthen its negotiating position. Furthermore, despite serious concerns related to the consequences of Azerbaijani oil revenues and its own increasing isolation or marginalization, Armenia, too, can look to the Balkans and see at least some cause for optimism in case of further postponement: Armenian Foreign Minister Vartan Oskanian sees the founding of the state of Montenegro and the growing international support for Kosovan independence as an international

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27 Cf. I. William Zartman, *Ripe for Resolution: Conflict and Intervention in Africa*, New York 1985; I. William Zartman, *The Strategy of Preventive Diplomacy in Third World Countries*, in: Alexander L. George (ed.), *Managing US-Soviet Rivalry*, Boulder 1983, pp. 341-364.

tendency towards strengthening the right to national self-determination. Thus, in the spring of 2006, he drew the following conclusion: “The longer Nagorno-Karabakh maintains its de-facto independence, the harder it will be to reverse the wheel of history.”<sup>28</sup>

The failure of the parties to take steps to prepare their respective populations for the need to compromise is particularly problematic given the various elections that are due to be held starting in 2007. Numerous appeals to this effect by representatives of friendly countries and international organizations to the governments in Baku and Yerevan have so far been without effect. Efforts made by the Minsk Group, the Personal Representative of the Chairman-in-Office, and other OSCE structures as well as other international organizations and NGOs to initiate practical co-operation or confidence-building measures between representatives of state or civil society structures have, with few exceptions, foundered on the resistance of the officials. Where partial successes were recorded, a deliberate effort was often made to avoid the media spotlight for fear of endangering what had been achieved. However, without the appropriate publicity, it is not possible to realize confidence-building effects on a broad scale. The result is that a sense of enmity and mutual mistrust remain, and there has been absolutely no constructive engagement with the conflict and its causes. At the same time, a comparison with the Georgian-South Ossetian and Georgian-Abkhaz conflicts shows that there is a great scope for practical co-operation projects, societal contacts of all kinds, and civil conflict management.

A further obstacle consists in the fact that the parties have, on various occasions, made their consent to activities of this kind dependent on the positive outcome of the negotiations. In this way, they have effectively made such measures part of the problem rather than a means to a solution. On the other hand, it can also be argued that successful confidence-building and the shift to a more reflective intra-societal discourse can increase the willingness of the sides to compromise and expand the leeway available to the negotiators with regard to domestic policy, ultimately improving the chances of a conflict settlement being achieved. It is therefore urgent that co-operation with the parties in this area be intensified with the aim of increasing their active participation in confidence-building measures. There is also an opportunity for the EU to make use of Armenia and Azerbaijan’s enormous interest in the European Neighbourhood Policy in order to increase the emphasis placed on the need for such activities and to increase the number of proposals made to the parties in this area.

Although the ceasefire currently appears stable and the Prague Process has made steps forward, there are indications that a continuing lack of tangible progress in the negotiations may carry a risk of destabilization. If the

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28 Statement by the Foreign Minister of Armenia, Vartan Oskanian, in the Armenian Parliament during a hearing on the Nagorno-Karabakh conflict in March 2005, cited in: *Nagorno-Karabakh: A Plan for Peace*, cited above (Note 15) p. 11.

process were to stagnate for several years, it could exacerbate various negative factors, such as the marginalization of Armenia in the region, the Armenian-Azerbaijani arms race, and could even restrengthen the aggressive rhetoric exchanged between the sides. This causes a problem by itself inasmuch as, as experience has shown, sabre-rattling rhetoric not only affects one's opponent, but also has a – potentially unintentional – fatal effect on one's own side: It can determine public expectations and thereby generate considerable pressure on the leadership to actually take military action under some circumstances.

### *Recent Developments*

Following the failure of the Bucharest presidential summit, there were heightened exchanges of rhetoric between the parties, and Azerbaijan accused Armenia of igniting large fires in the occupied territories. Baku attempted to have the UN General Assembly pass a resolution to this effect. This initiative reflected Azerbaijan's long-held goal of increasing the involvement of the United Nations in the conflict by means of a resolution on the occupied territories, thereby also increasing the prominence of the principle of territorial integrity in the settlement of the conflict. Armenia categorically rejected this attempt by Azerbaijan to involve the UN, just as it had every previous one. Nonetheless, mediation efforts, undertaken primarily by the co-chair states, succeeded in achieving agreement on the text of a resolution that was acceptable to both sides. The resolution of the UN General Assembly of 7 September 2006 noted the OSCE's intention, with the support of the United Nations Environmental Programme (UNEP), to organize a mission to the region "to assess the short- and long-term impact of the fires on the environment as a step in preparation for the environmental operation".<sup>29</sup> While the adoption of the resolution represented a political success for Azerbaijan, its text amounted to a successful compromise.

From 3 to 13 October, the Co-ordinator for OSCE Economic and Environmental Activities led an international assessment mission to the affected areas. The mission concentrated on an entirely technical examination and analysis of the situation and, in its report, gave a number of recommendations on how to prevent further outbreaks of fire and to deal with the damage already caused. The mission was adjudged a successful confidence-building measure: It was successfully carried out in compliance with the agreed Terms of Reference and was also notable for including not only international experts, but also Armenian, Azerbaijani, and Karabakh-Armenian specialists.

In September 2006, immediately following the passing of the UN resolution, the co-chairs recommenced their intensive diplomatic efforts. Following a four-month break, and after several individual discussions with

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29 United Nations General Assembly, A/RES/60/285, 15 September 2006: The Situation in the occupied territories of Azerbaijan.

the various foreign ministers and presidents, direct negotiations on the basic principles of a settlement were continued in October and November in three meetings with the two foreign ministers in Moscow, Paris, and Brussels. These paved the way for the third meeting that year between the presidents, which took place on 28 November on the occasion of the CIS summit in Minsk.<sup>30</sup> Both sides were positive about the discussions held in the Belarusian capital: President Aliev announced that the sides were approaching the final stage of negotiations and that they were discussing the most contentious issues and had lately succeeded in resolving some of those questions they had previously disagreed on.<sup>31</sup> Foreign Minister Oskanian stated that the meeting raised hopes that there was a possibility of achieving agreement on even the very difficult issues.<sup>32</sup>

Oskanian also made a remarkable statement in this connection, according to which the parliamentary elections due to be held in Armenia in the spring would not lead to an interruption in the negotiating process, and that a fourth meeting of the two heads of state might even be possible before the Armenian elections in May 2007, while a further summit was planned for after the elections.<sup>33</sup> Although the co-chairs had, in the preceding months, repeatedly drawn attention to the narrow window of opportunity created by the series of elections due to commence in 2007, thus stressing the importance of a breakthrough in negotiations, now, in the second half of the year, both the co-chairs and the parties were explaining – albeit using comparatively restrained language – that the impending elections would not necessarily be an obstacle to continuing the negotiations.<sup>34</sup>

### Outlook

Following the failure of the summit meetings in Rambouillet and Bucharest, with which a great deal of expectation had been bound up, the OSCE-led “fire mission” and the meeting in Minsk appear to once more supply grounds for hope that the negotiations will be able to carry on in 2007 despite the elections.

A number of factors could improve the parties’ willingness to compromise.

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30 Cf. *Joint Statement by OSCE Minsk Group Co-Chairs*, OSCE Press Release, 30 November 2006.

31 Cf. *Azerbaijani President Says Karabakh Talks Nearing “Final Stage”*, in: RFE/RL, News & Analysis, 29 November 2006.

32 Cf. *Nagorno-Karabakh: OSCE Says Solution in Sight*, in: RFE/RL, News & Analysis, 5 December 2006.

33 Cf. Liz Fuller, *Caucasus: Azerbaijani, Armenian, Karabakh Officials Assess Talks*, in: RFE/RL, News & Analysis, 1 December 2006; *Azerbaijani President Says Karabakh Talks Nearing “Final Stage”*, cited above (Note 31).

34 Cf. Emil Danielyan, *Nagorno-Karabakh: U.S. Mediator Says Elections No Obstacle to Accord*, in: RFE/RL, News & Analysis, 31 July 2006.

For instance, the escalation of the conflict between Russia and Georgia and the ongoing closure of the only legal Russian-Georgian border crossing at Zemo Larsi (Verkhni Lars) in July 2006, plays a role in this by exacerbating the blockade situation in which Armenia finds itself. UN Security Council Resolution 1737 of 23 December 2006, with which the international community imposed the first set of sanctions on Iran, creates additional pressure by increasing the likelihood of more extensive international sanctions on Armenia's neighbour, which would threaten Armenian-Iranian cross-border commerce.

At the same time, the Azerbaijani side appears to be increasingly acknowledging that the military option entails major risks for the economic and political development of the country. Consequently, on the Azerbaijani side, there can currently be observed a tendency to restrain military rhetoric in favour of stressing Azerbaijan's future economic superiority to Armenia, and the non-military options for resolving the conflict that will arise as a result.<sup>35</sup>

The declared willingness of, above all, the Armenian side, to continue negotiations, even to an extent immediately prior to or after the elections due in the spring of 2007 is positive. However, it must be assumed that these negotiations will be carried out under considerably more difficult conditions. Aside from the danger of matters that are up for negotiation becoming issues within the election campaigns, the forthcoming elections could also change the balance of power in parliament. Furthermore, Armenia also is about to change personnel in key leadership and negotiating positions, which could also lead to delays in the negotiating process or changes in the Armenian position: After serving two terms, Robert Kocharian cannot stand again for president, while Vartan Oskanian has declared his intention to step down as foreign minister before the presidential elections in 2008. In addition, Arkady Gukasyan, the Karabakh Armenian "president" since 1997, has announced that he will not stand again in the unrecognized "presidential elections" in August 2007.

It remains to be seen whether the parties that find themselves in this situation will succeed in working constructively and making use of above all the second half of 2007 – i.e. the period between the parliamentary elections in Armenia and the presidential elections in both countries – to achieve agreement on the questions that remain up for negotiation.

With regard to the initiation of urgently necessary confidence-building measures, the OSCE "fire mission" and the recommendations of the expert group could provide a basis on which to build. This is helped, on the one

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35 On this, see President Aliiev's address at the opening of the Azerbaijani parliament on 2 October 2006 (*AzerTag*, 2 October 2006): "The strengthening of military potential does not lead automatically to war. This is the last version [...] I am convinced that using our political, economic, diplomatic and regional factors, we shall be able to exert pressure on Armenia [...] We must be active in all spheres [...] We must use economic factors, and these opportunities will increase gradually [...] After Azerbaijan gets 100 times richer than Armenia, perhaps, there will be no need for the option of war."

hand, by the fact that the international community's interest in this mission was the result of an Azerbaijani initiative, i.e. of the party that has so far been the most reluctant to take joint action with its opponents. At the same time, the text of the UN resolution had already laid a foundation for further confidence-building co-operation between the parties in this field by explicitly referring to the mission as only "a step in preparation" for a further-reaching "environmental operation", the importance of which is mentioned elsewhere in the resolution.<sup>36</sup>

A more sustained engagement in this area by the international community would provide an opportunity to encourage the conflict parties to develop and implement concrete joint measures. Particularly in the case that the current round of negotiations does not bear fruit, such joint measures could help to improve the starting position of future talks. They could also go a small ways towards counteracting the risk of a lengthy period of stagnation resulting in members of both societies discussing alternatives to negotiation that might entail a danger of escalation.

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36 Point 1 of the resolution states: "[The General Assembly] stresses the necessity to urgently conduct an environmental operation to suppress the fires in the affected territories and to overcome their detrimental consequences." In point 3: "[The General Assembly] takes note of the intention of the Organization for Security and Cooperation in Europe to organize a mission to the region [...] as a step in preparation for the environmental operation". United Nations, A/RES/60/285, cited above (Note 29).

## The OSCE's Dilemma in Central Asia

### *Introduction*

On declaring independence 15 years ago, the five Central Asian republics, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan, were insufficiently prepared for the radical political, economic, and social transformation process. The "artificiality" of nation-state identities and borders that were largely the result of Stalinist nationalities policy led observers initially to assume that supranational identity patterns such as Islamism could gain momentum and increase the potential for conflict in Central Asia. However, these nation-state identities proved to possess more stability and sticking power than anticipated, and, where conflicts have arisen during the last 15 years, they have tended to remain in the domestic sphere, focusing on questions such as of the rule of law and the relationship between citizens and the state, social and economic development, and regional disintegration and the dominance of regional solidarity groups. The political disturbances in Kyrgyzstan in March 2005 that led to the overthrow of President Askar Akaev and the suppression of the revolt in Andijan by the Uzbek security forces in May of that year are just the most dramatic (and most visible, from a European perspective) manifestations of a growing crisis in Central Asia.

Although the accession of all five Central Asian states to the CSCE in 1992 was not without controversy, the argument that finally won the day was that an inclusive and integrationist policy with respect to *all* the former Soviet republics was a key means of overcoming the political and economic crises that came in the wake of the Soviet Union's collapse.

A critical look back on 14 years of OSCE dialogue with the five Central Asian states reveals a rather less rosy picture. Although, in the late 1990s, all five states were in favour of intensifying co-operation with the Organization, none of them acted in accordance with basic OSCE principles. This failure of compliance may in part be the result of a lack of resources and capacities; in recent years, however, a lack of political will has also become evident. In particular, all five republics exhibit grave deficits in the area of democratization, specifically with regard to the establishment of a multiparty system and free and fair elections – principles to which all participating States committed themselves at the CSCE's Copenhagen Conference in 1990. Turkmenistan's President-for-Life Saparmurat Niyazov – "Turkmenbashi the Great" – established a totalitarian dictatorship and a bizarre personality cult. In Uzbekistan, the security forces of the autocratic President Islam Karimov were not only heavy handed in suppressing unrest in Andijan in May 2005, killing hundreds of protestors, but have also generally acted to suppress that country's nascent

civil society. Tajikistan's President, Emomali Rakhmonov, consolidated his position against his former allies, damaging democratic development in the process. In December 2005, Kazakhstan's President, Nursultan Nazarbaev, was elected for a further six years with 92 per cent of the vote in a rigged election. In Kyrgyzstan, one year after Akaev's fall, the government of President Kurmanbek Bakiev and Prime Minister Felix Kulov is attempting to re-establish state authority in the face of disintegrative forces, some of which have close links to organized crime.

At the same time, the political parameters for the OSCE in Central Asia have fundamentally changed since 2001 – and not for the better. As a consequence of the 11 September 2001 attacks on the USA, this region, with its proximity to Afghanistan, took on increasing importance in the thinking of NATO and the European Union, and they gradually began to move into areas that were previously the OSCE's domain. In the politico-military dimension, NATO's Partnership for Peace programme was able to mobilize resources that the OSCE could only dream of. The participation of Kazakhstan, Kyrgyzstan, Turkmenistan, and Uzbekistan in this programme from 1994 (Tajikistan was to follow in 2002) was part of a security policy reorientation, which, despite Russia's participation in the programme, promised limited guarantees against any Russian claim to regional hegemony. This realignment was given a further boost by the start of NATO operations in Afghanistan in 2001.

Something similar applies to the economic dimension, where the EU and its many institutions have considerable means at their disposal. For a long time, Central Asia was not a priority on the EU's agenda, but the events of 11 September 2001 as well as a growing interest in economic contacts with Kazakhstan also led to an – at first tentative – expansion of EU activities and institutions.

New strategic partnerships within the scope of the US "War on Terror" gave states such as Uzbekistan expanded room to manoeuvre – though this was only temporary, as we can see now. The dramatic deterioration in Uzbek-US relations following the Andijan crisis in May 2005, which eventually resulted in the closure of the US airbase Karshi-Khanabad ("K2"), led to a reorientation of Uzbek foreign policy, which spread gradually to other countries in the region. This can be seen, for instance, in China's growing political influence and efforts to increase the profile of the Shanghai Cooperation Organization. At the same time, the autocratic governing elites in Central Asia are increasingly turning to Russia again, which is positioning itself as a guarantor of the status quo in the CIS area against further Colour Revolutions. Russia's "return" to Central Asia is particularly relevant to the OSCE, as Russia is the spokesperson for a group of CIS states (which also includes Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan) that has increasingly adopted a confrontational attitude towards the Organization. The

“crisis of the OSCE”<sup>1</sup> is thus also evident in Central Asia, where the Organization no longer provides an inclusive forum for dialogue, but rather a stage for acting out the dispute over alleged “double standards” in the treatment of the states “West” and “East of Vienna”.

#### *Russia’s Return to Central Asia and the Crisis of the OSCE*

After becoming independent in 1991, the five Central Asian states sought, gradually and to varying degrees, to distance themselves from Russia. The Russian language, the *lingua franca* in Central Asia, was – at least officially and with different rates of success – suppressed in favour of national languages, national history was rewritten to define Russian (and later Soviet) dominance as colonialism. Moreover, the economic and social crises that followed independence, as well as the civil war in Tajikistan led many ethnic Russians to leave the region, a trend that continues to this day. While Moscow was able to maintain its political and military influence in Tajikistan, in particular, the other Central Asian republics disentangled their security policies from Russia to a greater or lesser extent.

The Orange Revolution in Ukraine, the Rose Revolution in Georgia, and the political unrest in Kyrgyzstan led to a significant change of direction, marked, above all, by the “return” of Moscow’s influence in the region. Russia has given strong warnings about further efforts to “export revolution” in the CIS area. Western NGOs, such as Freedom House and the Open Society Institute, but also the OSCE – and the Office for Democratic Institutions and Human Rights (ODIHR) in particular – were charged with supporting opposition movements in Ukraine, Georgia, and Kyrgyzstan. The disillusionment and increasing criticism made by Russia and other CIS states over the evolution of the OSCE, and, particularly, its field missions, was made public as early as September 2003, when Belarus, Kazakhstan, Kyrgyzstan, and Russia condemned the asymmetrical distribution of the OSCE missions, the over-emphasis on the human dimension in the Organization’s programmes, and the interference in the domestic affairs of the participating States by OSCE institutions, and ODIHR in particular. As well as these criticisms, the four states made several proposals for reform, which would result in stronger control of missions and recruitment of personnel by the Permanent Council and a reduction in the length of mandates.<sup>2</sup>

The criticism continued, and, on 15 September 2004, the presidents of Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine, and Uzbekistan reiterated key aspects of previous criticisms in what became known as the “Astana Appeal”. It argued that the politico-military dimension

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1 Cf. Pál Dunay, *The OSCE in Crisis*, Chaillot Paper No. 88, Paris 2006.

2 Cf. On the Issue of Reform of OSCE Field Activities – A Food-for-Thought Paper, PC.DEL/986/03, 4 September 2003.

was the core element of the OSCE and should be strengthened, while the human dimension should be limited to freedom of movement, promotion of tourism, exchanges in science and technology, and exchanging and disseminating cultural values between participating States. Furthermore, field activities should refrain from monitoring the political situation and concentrate on the implementation of projects (in the economic dimension).<sup>3</sup>

The statements by Russian Foreign Minister Sergey Lavrov made in the *Financial Times* on 29 November 2004 and at the OSCE Ministerial Council in Sofia in December 2004 are evidence of a conditional interpretation of OSCE principles and an abandonment of the principles contained in the 1990 Copenhagen Document.<sup>4</sup>

### *The OSCE in Central Asia*

The outbreak of civil war in Tajikistan in May 1992 led to the establishment of the first CSCE/OSCE mission in Central Asia in 1993, which was to work closely with the United Nations mission to assist Tajikistan in the development of rule of law, democracy, and human rights within the scope of post-conflict rehabilitation.<sup>5</sup>

In the following year, on the initiative of Uzbekistan's President Karimov, the CSCE/OSCE opened a Liaison Office for Central Asia in Tashkent. Regional developments, especially the success of Afghanistan's Taliban and the problems with political and economic reforms in Central Asia, led to a growth in US and European interest in Central Asia, and the OSCE offered itself as a suitable organization for strengthening co-operation. As a result of the security situation in Afghanistan and the emergence of militant groups in Central Asia (such as the Islamic Movement of Uzbekistan, IMU), the Central Asian states were also interested in expanding security-related co-operation. During 1998, the OSCE reached agreements with Kazakhstan, Kyrgyzstan, and Turkmenistan to establish OSCE Centres in Almaty, Bishkek, and Ashgabad. The Liaison Office in Tashkent was expanded into a OSCE Centre in 2000 and the OSCE Mission to Tajikistan was renamed the OSCE Centre in Dushanbe in October 2002.

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3 Cf. 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](http://www.in.mid.ru/brp_4.nsf/0/70f610ccd5b876ccc3256f100043db72?OpenDocument). The appeal, which was distributed electronically, was signed by eight CIS states, not including Azerbaijan, Georgia, Moldova and Turkmenistan. A summary can be found in: Pál Dunay cited above (Note 1), pp. 75f.

4 Cf. MC.DEL/61/04, 7 December 2004.

5 Cf. Johannes Reissner, *Bürgerkrieg in Tadschikistan. Ursachen, Akteure, Verlauf und Friedenschancen* [Civil War in Tajikistan. Causes, Actors, Events, and Chances for Peace], Ebenhausen 1997.

Compared to the OSCE's field presences in South-eastern Europe, the Centres in Central Asia appear modest. Despite the successive establishment of field offices in Kyrgyzstan (Osh) and Tajikistan (Khujand, Garm, Kulyab, Shartuz, and Kurgan-Tyube), the OSCE spent less than five per cent of its total budget (and only some 2.5 per cent of its budget for field activities) on its presences and programme activities in Central Asia. The growing interest, above all on the part of Western participating States, in the region together with the criticisms made by the Central Asian countries of the geographical asymmetry of the OSCE's activities in favour of South-eastern Europe led to an expansion of OSCE activities in Central Asia. The budget for the Centres rose from 4.5 million euros in 2001 to 11.1 million euros in 2005. In percentage terms, this means that the OSCE's activities in Central Asia accounted for 2.1 per cent of its total budget in 2001 and 6.5 per cent in 2005.<sup>6</sup>

Recent years have also seen an increase in both seconded international personnel and local employees. The largest Centre at present is Dushanbe with 17 international experts, followed by Bishkek with ten, Almaty and Ashgabad with six each, and the OSCE Project Co-ordinator's office in Tashkent – which replaced the Centre in Tashkent in July 2006<sup>7</sup> – with three. However, it should be noted that some projects, such as the police project in Kyrgyzstan, also have additional seconded staff or directly employ other individuals on a contractual basis. The Centres also have a significant number of local employees without whose help it would be impossible to implement the OSCE's many projects.

The activities of the OSCE Centres in Central Asia are governed by mandates agreed between the host countries and the Organization. The mandates of the four Centres in Central Asia are all broadly similar at present, although the mandate of the Centre in Dushanbe contains a special clause on activities in the economic and environmental dimension (EED). Since July 2006, the Project Co-ordinator's office in Tashkent has had a very limited mandate restricting the OSCE's activities in Uzbekistan to project implementation. In general, the mandates sanction the promotion of the OSCE's principles in the host country, regional co-operation, activities in the three dimensions, co-operation with the various OSCE institutions, and the maintenance of contacts with local administrative structures, universities, research institutions, and NGOs. In addition, each mandate includes a paragraph stating that the OSCE Chairmanship may agree upon further tasks together with the host country.<sup>8</sup> The human dimension, i.e. supporting the states in establishing democratic institutions and strengthening civil society structures, was

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6 Cf. OSCE, Permanent Council, Decision No. 463, Year 2001 Budget Revision, PC.DEC/463, 21 December 2001, and OSCE, Permanent Council, Decision No. 715, OSCE 2005 Unified Budget Revision, PC.DEC/715, 19 January 2006.

7 Cf. OSCE, Permanent Council, Decision No. 734, OSCE Project Co-ordination in Uzbekistan, PC.DEC/734, 30 June 2006.

8 The texts of the mandates may be read at the websites of the various Centres, at: <http://www.osce.org>.

an early priority. In this field, the Central Asian countries had made little progress since independence – e.g. compared to Eastern Europe.

In theory, the loosely worded and open-ended mandate arrangements create an opportunity for interpretation and the flexible reaction to regional and country-specific problems. However, this has led, and continues to lead, to an apparently arbitrary expansion of the portfolio, which has caused problems for the consistent presentation of OSCE activities to the outside world, leading to problems regarding the way the Organization is perceived by the governments and civil societies of host countries. Moreover, politically motivated expansions of programme activities did not necessarily entail that the OSCE and its field operations are in possession of the necessary expertise or personnel. Local project implementation capacities were also often overestimated, resulting in overstretch of the resources of both host governments and civil society infrastructures in Central Asia.

In Central Asia today, the OSCE performs a wide variety of activities in all three dimensions, ranging from police projects (Kazakhstan and Kyrgyzstan), strengthening the media (all Central Asian states apart from Turkmenistan), mine clearance (Tajikistan, in co-operation with the UN), an Islamic-secular dialogue project (Tajikistan), the regional OSCE Academy in Bishkek, and support for land reform in Tajikistan, via the promotion of medium-sized enterprises (in all Central Asian states), to monitoring threats to the environment (also in all republics). In addition, ODIHR observes elections and referendums in four of the five Central Asian states (there is no election monitoring in Turkmenistan). The OSCE High Commissioner on National Minorities (HCNM) has visited Kyrgyzstan several times in recent years, as well as Tajikistan and Turkmenistan.

The scope of activities and the successful implementation of projects depend upon the nature of the problems in each country and the willingness of the host state to co-operate. Clear differences can be observed among the Central Asian countries. Overall, as already indicated, the conditions for the OSCE in Central Asia have deteriorated considerably. In parallel to the existential discussion on the future of the OSCE – which is not always being carried out in a constructive way by Russia in particular – the five Central Asian states have progressively reduced the OSCE's scope for action. Some states demand that projects be submitted to the relevant ministry by the Centres before implementation; foreign ministries have attempted to monitor all of an OSCE Centre's contacts with political actors; and, occasionally – most recently in relation to the extension of the mandate of the Centre in Tashkent – Uzbekistan successfully demanded that the OSCE Centre be downsized into a project co-ordination office with a limited portfolio.<sup>9</sup>

In Kyrgyzstan, during the events of March, the OSCE was able to play a positive and stabilizing role. This was particularly true with regard to the preparations and implementation of the presidential elections in July 2005.

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9 Cf. PC.DEC/734, cited above (Note 7).

Nonetheless, this did not mean that the Organization became a central political actor in the course of the crisis. Russia showed no interest in involving the OSCE in working to settle the conflict and stabilize the situation, while the key donor organizations, known as the “Donor Group”, were able to exert far more influence on the government. The revolution in Kyrgyzstan and the unstable political situation that has prevailed since March 2005, in which the government has only been able to assert its central authority in the most rudimentary fashion against regional groups, provides the OSCE with a relatively large amount of freedom and enables a broad range of activities. The promotion of civil society structures and independent media are integral and vital aspects of its activities, while the police project, in particular, aims at strengthening state structures within a democratic framework. However, it is questionable whether providing training and technical equipment to police officers is incentive enough to limit the endemic corruption and establish a relationship of trust between citizens and police as long as the recruitment process lacks transparency and pay is too low.

The Kyrgyz government is currently discussing a fundamental constitutional reform that would adjust the role of the president, the prime minister, and the parliament. The OSCE could bring its indisputable expertise to bear on this, but the opportunity for it to make a constructive contribution is called into question by the government’s tight schedule.

Fuelled by its considerable oil and gas reserves, Kazakhstan has experienced largely positive social and economic development. Nonetheless, the results have fallen short of expectations and have not been translated into political change.<sup>10</sup> The opposition is still subject to suppression by the security forces, the media is regulated by the state, and the presidential election won by Nazarbaev in December 2005 with nearly 92 per cent of the vote failed to fulfil a number of OSCE commitments.<sup>11</sup>

Although Kazakhstan has aligned itself with the OSCE’s critics, it is also the first Central Asian country to apply for the OSCE Chairmanship for 2009. The success or failure of this candidacy will be decisive in determining the OSCE’s future role in Central Asia. If Kazakhstan is granted the Chairmanship, it could strengthen the integration of Central Asia within the OSCE and even lead to improvements in terms of compliance with OSCE principles. Nonetheless, given the deficit in the area of democratic reforms, there is a danger that Kazakhstan could misuse the OSCE Chairmanship as a “democratic fig leaf”, further damaging the Organization’s already tattered reputation. A rejection of Kazakhstan’s application, however, might have considerably more dramatic repercussions, by fuelling the fires of the already

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10 Cf. Martha Brill Olcott, *Central Asia’s Second Chance*, Washington 2005.

11 Cf. OSCE Office for Democratic Institutions and Human Rights, *Republic of Kazakhstan, Presidential Election, 4 December 2005, OSCE/ODIHR Election Observation Mission Final Report*, Warsaw, 21 February 2006.

heated debate over the OSCE's alleged "double standards". It remains to be seen how the participating States will solve this dilemma.

Of the five Central Asian states, Tajikistan was the least well prepared for independence in 1991, and, within a year, regional conflicts over resources, political ideologies, and power had developed into a brutal civil war, devastating the country between 1992 and 1997. The OSCE worked closely with the UN in the area of post-conflict rehabilitation, which contributed a great deal to the stabilization of a country whose closeness to Afghanistan and Uzbekistan continues to cause problems. The Organization carries out a wide variety of activities in Tajikistan, ranging from mine clearance to strengthening civil society structures, although it should be noted that the Tajik government has also increasingly restricted the OSCE's scope of operations and is not complying with its commitments with respect to democratic development. This is directly linked to the consolidation of the political position of President Rakhmonov, who has achieved pre-eminence over his former allies and regional rivals during the past three years. In 2003-2004, he put an end to the tentative development of civil society and the media sector, and eliminated his political rivals – with the more or less active involvement of Russia – while presidential associates brought the country's limited resources under their control.

The reaction of the security forces to alleged Islamic extremists, above all, to adherents of the "Party of Islamic Liberation" (*Hizb ut-Tahrir al-Islami*), is alarming, and is becoming increasingly reminiscent of the disproportionate action taken by Uzbek security forces against similar groups. The OSCE reacted to the growing tension between state power and religiously motivated groups by initiating a project, *23 Seminars on Law and Religion*, that encouraged local representatives of both camps to come to the table. This was an innovation for the region.

The OSCE/ODIHR did not monitor the 2003 referendum, as the preparations had already revealed fundamental failures to comply with standards. The assessment of the parliamentary elections in February 2005 revealed marginal improvements compared to the 2000 elections. Nonetheless, it came to the conclusion that the "parliamentary elections in Tajikistan failed to meet many of the key OSCE commitments for democratic elections contained in the 1990 Copenhagen Document, and they were also not conducted fully in accordance with domestic law".<sup>12</sup> Given the repression of potential opposition candidates, many observers expect no major improvement for the presidential elections due in November 2006.

In the last instance, the political will and willingness of each host country to co-operate with the OSCE are decisive in determining the activities of each Centre. Since the freedom of the OSCE Centre in Turkmenistan was

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12 OSCE Office for Democratic Institutions and Human Rights, *Republic of Tajikistan, Parliamentary Elections, 27 February and 13 March 2005, OSCE/ODIHR Election Observation Mission Final Report*, Warsaw, 31 May 2005, p. 1.

significantly restricted in recent years and the OSCE's mandate in Uzbekistan was reduced dramatically with its transformation into a mere project co-ordination office, the question should be raised of whether it is worth maintaining OSCE presences in Ashgabad and Tashkent. The desire to maintain a willingness to engage in dialogue and to observe political and social developments are certainly powerful arguments for the OSCE's presence in both states, in which many participating States have no diplomatic presence of their own. Given the blatant violation of fundamental OSCE principles, and the ongoing refusal to co-operate with the OSCE and its institutions (such as followed the Andijan events in Uzbekistan or the invocation of the "Moscow mechanism" after the attempted assassination of Turkmenistan's President Niyazov), those participating States that remain committed to OSCE principles should reconsider the extent to which the Organization's activities in these states damage its reputation and credibility, while drawing attention to its powerlessness.

The OSCE has only very limited means of applying sanctions to participating States for non-compliance or violation of OSCE principles. One of the few instruments in the human dimension is the Moscow mechanism, which was agreed upon by the participating States in 1991.<sup>13</sup>

The Moscow mechanism was activated by ten OSCE participating States on 20 December 2002 when, following an alleged assassination attempt on Turkmenistan's President Niyazov, Turkmen security forces unleashed a massive wave of repression. Turkmenistan refused categorically to co-operate with OSCE Rapporteur Emmanuel Decaux, blocked his entry into the country, and was unwilling to nominate a second expert. The report of February 2003 pulls no punches in documenting massive violations of OSCE principles by Turkmenistan, at the same time, however, it records the OSCE's lack of a means to impose sanctions, as the report remained without consequences.<sup>14</sup> The several visits of the HCNM to Turkmenistan were likewise ineffective, and the situation for the Uzbek and Russian minorities in Turkmenistan continues to deteriorate.

Following the suppression of the revolt in Andijan by Uzbek security forces on 13 May 2005, the Western participating States, in particular, were vociferous in calling for an independent OSCE inquiry into the events, something that was rejected by Tashkent. Although ODIHR released a report based on interviews with Uzbek refugees in Kara-Suu, Kyrgyzstan,<sup>15</sup> and re-

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13 Cf. Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 605-629.

14 Cf. OSCE/ODIHR, OSCE Rapporteur's Report on Turkmenistan. By Prof. Emmanuel Decaux, ODIHR.GAL/15/03, 12 March 2003.

15 Cf. OSCE, Office for Democratic Institutions and Human Rights, *Preliminary Findings on the Events in Andijan, Uzbekistan, 13 May 2005*, Warsaw, 20 June 2005.

ported on the subsequent trial of the alleged leaders of the rebellion,<sup>16</sup> the participating States – probably remembering the debacle of Turkmenistan in 2002 – refrained from activating the Moscow mechanism.

In recent months, the Uzbek government has imprisoned the remaining opposition politicians, while closing the offices of many international NGOs as well as the Office of the UNHCR in Tashkent. Following the events in Andijan, the OSCE pressed for an independent inquiry, which put it on a collision course with the government. While the Centre's mandate was extended for six months in December 2005 until June 2006, the Uzbek government finally demanded successfully that the Centre be transformed into a project co-ordination office as of July 2006.<sup>17</sup>

### *What Strategy for Central Asia?*

For a long time, no consistent strategy for Central Asia could be detected on the part of the OSCE. Only during the Portuguese Chairmanship in 2002 was a – still rather vague – formulation of general strategic guidelines for the OSCE presences in Central Asia developed by the Conflict Prevention Centre in the OSCE Secretariat. This covered balancing the dimensions, combating terrorism, assistance in developing political and administrative structures, promoting regional co-operation, and improving co-ordination with donor states.<sup>18</sup>

Discussion of the OSCE's aims and strategy in Central Asia has been encouraged by the broad scope of the Organization's activities in the region, the ongoing criticisms brought by several participating States, and the events in Kyrgyzstan and Uzbekistan during 2005. As part of the OSCE regional ambassadors' conference held in Bishkek in April 2006, the Conflict Prevention Centre of the OSCE Secretariat produced a strategy paper that proposed a return to core competencies, namely the identification of a region's conflict potential and the work of conflict prevention, and outlined four priorities for the OSCE's work in Central Asia:

- Promoting and supporting political pluralism, the development of democracy with citizen participation, the implementation of human rights standards, civil society, and media freedom.
- Promoting and supporting the rule of law and good governance.
- Promoting just framework conditions for social and economic development, especially via strengthened regional economic co-operation.

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16 Cf. Office for Democratic Institutions and Human Rights, *Report from the OSCE/ODIHR Trial Monitoring in Uzbekistan – September/October 2005*, Warsaw, 21 April 2006.

17 Cf. OSCE, Permanent Council, Decision No. 714, Extension of the Mandate of the OSCE Centre in Tashkent, PC.DEC/714, 22 December 2005, and PC.DEC/734, cited above (Note 7).

18 Cf. CIO.GAL/15/02, 14 March 2002.

- Promoting regional co-operation aimed at meeting common challenges in the field of regional security (trafficking in human beings, terrorism, border disputes, and environmental dangers).<sup>19</sup>

Given the current institutional crisis and the declining willingness to cooperate of the Central Asian states, we must wait and see whether the OSCE will be able to pursue its strategy and its return to core elements of comprehensive security proactively or will be forced to act merely in reaction to events.

The accusation that the OSCE concentrates above all on the human dimension and the strengthening of civil society structures in Central Asia is largely inaccurate, as strictly separating the three dimensions is not possible with regard to many activities and many projects rely on dialogue between state and civil society actors. The police project in Kyrgyzstan, for instance, comprises elements of both the politico-military and human dimensions, while support for the media is also given to pro-government publications and news agencies.

It is not only in Central Asia that the OSCE's economic dimension is underrepresented, and the Organization has not yet succeeded in developing a coherent strategy for this side of its activities. In view of current developments, it cannot be expected that the OSCE participating States will provide adequate financial and human resources to expand its profile in this area. The Organization has, however, failed to identify complementary niches that were not occupied by other multilateral (World Bank, European Bank for Reconstruction and Development) and bilateral donors. For instance, the World Bank has no power to make political evaluations of individual host countries. This is an area where the OSCE – assuming the appropriate reforms in national legislation – could make a contribution. The relative success of the transformation process in Eastern Europe has above all been determined by the fact that OSCE activities in Eastern Europe and the Balkans have been accompanied by a variety of economic (especially via the European Union) and security-related (via NATO) incentives, which were offered as “rewards” for implementing OSCE commitments. These incentives were (and still are) not present in Central Asia.

The Central Asian states' frequent calls for the OSCE's politico-military dimension to be strengthened are justified in terms of the troublesome security situation in Afghanistan. The Central Asian governments regularly refer to the threat of “Islamic terrorism” and have legitimized the sometimes disproportionate reaction of their security forces to putative extremist groups with reference to the “War on Terrorism”. Uzbekistan and Tajikistan, in particular, have adopted a highly problematic strategy that relies exclusively on the security forces and ultimately generates more conflict potential than it

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19 Cf. *The OSCE in Central Asia: A Framework for Action*, a working paper prepared as part of the OSCE regional ambassadors' conference in Central Asia, Bishkek, April 2006.

removes. The reaction of the Uzbek delegation to the events in Andijan clearly shows the problems with the use of the concept of “terrorism”.<sup>20</sup> Of course, it should be noted that this is also a controversial topic among participating States “West of Vienna”.

As an inclusive organization, the OSCE has already reacted to the criticism of the Central Asian participating States and has rethought its involvement in Central Asia. The core of the Central Asia strategy of the Conflict Prevention Centre in the OSCE Secretariat, i.e. the return to early warning, conflict prevention, and crisis management, attests to an effort to strengthen the OSCE’s profile in Central Asia. Developments in the region in recent years have shown that the security of the population of the five Central Asian states is threatened less by external conflicts than by internal struggles relating to rule of law, democratization, relations between state and citizen, and social development. Against this background, the discussion of “double standards” and the adaptation of OSCE principles – especially those contained in the Copenhagen Document – to different cultural milieus is a troublesome development.

Last but not least, the Organization’s readiness to maintain its presence in Turkmenistan and Uzbekistan with mandates that make a mockery of OSCE principles is further undermining its credibility among major parts of Central Asian civil society.

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20 Cf. Statement by the Delegation of the Republic of Uzbekistan at the Meeting of the OSCE Permanent Council, 19 May 2005, PC.DEL/402/05, 20 May 2005.

The Human Dimension and  
Democratic Development



## The Death Penalty in the OSCE Area

There is an increasing trend towards the abolition of the death penalty in the OSCE region. Of the 56 OSCE participating States, nine retain the death penalty in some form, and only three still carry out executions.

This article begins by outlining the status of the death penalty in the OSCE area. It details the relevant national legal frameworks in those OSCE States that still retain the death penalty in some form. Then it analyses a variety of international standards on the death penalty developed by the OSCE, the United Nations, the European Union, and the Council of Europe. Finally, it provides an overview of activities the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertakes in its efforts to support OSCE participating States in complying with their commitments related to capital punishment.

The article is based on the data collected by the ODIHR in the course of its regular monitoring of the status of the death penalty in the OSCE area, the results of which are published annually in a background paper produced before the OSCE Human Dimension Implementation Meeting in the autumn.<sup>1</sup>

For the purpose of this article, each participating State has been classified as abolitionist, partly abolitionist, *de facto* abolitionist, or retentionist according to the status of the death penalty in the relevant State's law and practice.

### *Status of the Death Penalty in the OSCE Area*

#### *Abolitionist and Partly Abolitionist States*

In 47 OSCE participating States, the death penalty has been abolished for all crimes. These States are: Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Serbia, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Turkmenistan, Ukraine, the United Kingdom, and the former Yugoslav Republic of Macedonia.

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<sup>1</sup> The full version of the background paper can be found at [http://osce.org/odihr/item\\_11\\_20721.html](http://osce.org/odihr/item_11_20721.html).

In two OSCE participating States – Albania<sup>2</sup> and Latvia<sup>3</sup> – the death penalty has been abolished for crimes committed in peacetime, but is retained for crimes committed in wartime. In Albania, the Military Criminal Code envisages the death penalty for a number of crimes if committed during a state of emergency or during wartime.<sup>4</sup> In Latvia, the Criminal Code prescribes the death penalty for murder with aggravating circumstances if committed during wartime.<sup>5</sup>

#### *De facto Abolitionist States*

In four states – Kazakhstan,<sup>6</sup> Kyrgyzstan,<sup>7</sup> the Russian Federation,<sup>8</sup> and Tajikistan<sup>9</sup> – the death penalty is retained for crimes committed in peacetime, but executions are not carried out.

#### *Kazakhstan*

The Constitution of the Republic of Kazakhstan envisages the death penalty, as an exception to the right to life, for ten especially grave crimes. These crimes are: murder with aggravating circumstances; terrorism; attempt on the life of a person administering justice or carrying out preliminary investigations; attempt on the life of the president; state treason; sabotage; planning, preparation, or conduct of aggressive war; use of prohibited means and methods of conducting war; genocide; and mercenary participation in armed conflict.<sup>10</sup> The death penalty is also prescribed for eight military crimes if committed in time of war.<sup>11</sup> Women and individuals who are below the age of 18 at the time of the crime cannot be sentenced to death.<sup>12</sup>

A moratorium on executions was introduced in December 2003 by presidential decree.<sup>13</sup> The moratorium will be in place until the question of

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2 Albania is a party to the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), and the Protocol 6 to the ECHR.

3 Latvia is a party to the ICCPR, the CRC, the ECHR, and the Protocol 6 to the ECHR.

4 Articles 25, 26, 28, 34, 47, 50, and 77 of the Military Criminal Code.

5 Article 37 of the Criminal Code, 15 October 1998, with amendments of 18 May 2000. This article also provides that the death penalty may not be applied to individuals below the age of 18 at the time of crime, or to women.

6 Kazakhstan is a party to the ICCPR and the CRC.

7 Kyrgyzstan is a party to the ICCPR and the CRC.

8 The Russian Federation is a party to the ICCPR, the CRC, and the ECHR. It is also a signatory of the Protocol 6 to the ECHR.

9 Tajikistan is a party to the ICCPR and the CRC.

10 Article 15 of the Constitution of the Republic of Kazakhstan, 30 August 1995. See also Article 49(1) of the Criminal Code, 1 January 1998.

11 Articles 96(2), 156(2), 159(2), 160, 162(4), 165, 167, 171, 233, 340, 367(2), 368(3), 369(3), 373(3), 374(3), 375(3), 380(3), 383 of the Criminal Code of the Republic of Kazakhstan.

12 Article 49(2), Criminal Code. This article also stipulates that the death penalty cannot be applied to men who are over the age of 65 at the time the sentence is pronounced.

13 Presidential Decree No. 1251 “On the introduction of a moratorium on the death penalty in the Republic of Kazakhstan”, 17 December 2003.

the full abolition of the death penalty is resolved. In addition, the presidential decree also provided for the introduction of life imprisonment from 1 January 2004 as an alternative to the death penalty.

Subsequent amendments to the Criminal Code provide for the suspension of all executions while the moratorium is in place and set out the status of those individuals who are subject to the moratorium.<sup>14</sup> In the event of the cancellation of the moratorium, the Criminal Code provides that all death sentences should be executed within one year. Everyone who had been subject to the moratorium would have the right to appeal to the Clemency Commission for commutation of their sentences.<sup>15</sup> All individuals sentenced to death have the right to appeal for commutation of the sentence to life imprisonment or 25 years' imprisonment.<sup>16</sup>

#### *Kyrgyzstan*

The Constitution provides that the death penalty may be used only in exceptional cases.<sup>17</sup> The death penalty is currently retained for three crimes: murder, rape of a female minor, and genocide.<sup>18</sup> Women and individuals who are below the age of 18 at the time of the crime cannot be sentenced to death.<sup>19</sup>

An official moratorium on executions is in place. It was initially introduced by a presidential decree that entered into force on 8 December 1998. The moratorium has subsequently been extended on an annual basis. The latest presidential decree envisages the extension of the current moratorium until the death penalty is abolished.<sup>20</sup> The same decree instructs the government of Kyrgyzstan to draft relevant registration and to adopt a strategy towards the abolition of the death penalty, including the construction of new prison facilities.

The Constitution gives the president the authority to grant clemency and provides that all individuals sentenced to death have the right to seek clemency.<sup>21</sup>

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14 Law of the Republic of Kazakhstan No. 514-II "On the introduction of amendments and additions to legislative acts of the Republic of Kazakhstan on the introduction of life imprisonment", 31 December 2003; Law of the Republic of Kazakhstan No. 529-II "On the introduction of amendments and additions to the Criminal Code and Criminal Procedure Code of the Republic of Kazakhstan in connection with the introduction of a moratorium on the execution of death penalty", 10 March 2004.

15 Article 49 of the Criminal Code of the Republic of Kazakhstan; Article 166(1) of the Criminal Procedure Code of the Republic of Kazakhstan; Presidential Decree No. 2975 "On provisions for the pardoning procedure by the President of the Republic of Kazakhstan", 7 May 1996.

16 Article 49(3) of the Criminal Code, Article 31(2) of the Criminal Procedure Code, and Article 166(1) of the Criminal Executive Code.

17 Article 18 of the Constitution of the Kyrgyz Republic, 5 May 1993.

18 Articles 97(2), 129(4), and 373 of the Criminal Code, 1 October 1997.

19 Article 50(2) of the Criminal Code.

20 Presidential Decree No. 667 "On prolongation of the term of the moratorium on execution of the death penalty in the Kyrgyz Republic", 29 December 2005.

21 Article 18(4) and Article 46 of the Constitution. The clemency procedure is governed by the Law "On general principles of amnesty and clemency" and Presidential Decree No.

### *The Russian Federation*

The Constitution of the Russian Federation provides for the death penalty, until its abolition, as an exceptional punishment for especially grave crimes against life.<sup>22</sup> The Criminal Code of the Russian Federation envisages the death penalty for five crimes: murder with aggravating circumstances, assassination attempt against a state or public figure, attempt on the life of a person administering justice or conducting preliminary investigations, attempt on the life of a law-enforcement officer, and genocide.<sup>23</sup> Women and individuals who are below the age of 18 at the time of the crime cannot be sentenced to death.<sup>24</sup>

A presidential decree instituted a moratorium on executions in 1996.<sup>25</sup> Furthermore, on 2 February 1999, a ruling of the Constitutional Court placed a temporary prohibition on the passage of death sentences. On 3 June 1999, a presidential decree commuted the sentences of all individuals on death row to either life or 25 years' imprisonment.

The Russian Constitution guarantees the right to trial by jury in cases in which the death penalty is a potential sentence.<sup>26</sup> Accordingly, the Constitutional Court adopted a resolution prohibiting the passage of death sentences until such time as jury trials are introduced in all constituent entities of the Russian Federation. At the time of the decision, jury trials were available in only nine of the 89 entities of the Russian Federation. It is envisaged that jury trials will have been introduced in all constituent entities of the Russian Federation by 1 January 2007.

The Constitution gives the president authority to grant clemency.<sup>27</sup> Clemency commissions in each of the constituent entities consider appeals for clemency and make recommendations to the president.<sup>28</sup> The death penalty can be commuted to life imprisonment or deprivation of liberty for 25 years.<sup>29</sup>

### *Tajikistan*

The Constitution envisages the death penalty, as an exception to the right to life, for especially grave crimes.<sup>30</sup> In August 2003, the president signed legis-

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100 on "Regulations on the procedure for providing pardon in the Kyrgyz Republic", 13 April 1995.

22 Article 20(2) of the Constitution of the Russian Federation, 25 December 1993.

23 Articles 105(2), 277, 295, 317, and 357 of the Criminal Code, 13 June 1996.

24 Article 59(2), Criminal Code. This article also stipulates that the death penalty cannot be applied to men who are over the age of 65 at the time when the sentence is pronounced.

25 Presidential Decree No. 724 "On the gradual decrease of the application of the death penalty in connection with accession to the Council of Europe", 16 May 1996.

26 Article 20(2).

27 Article 89(c).

28 A single Presidential Pardon Commission was replaced by regional commissions in each of the constituent entities by Presidential Decree No. 1500 "On the procedure for consideration of clemency appeals in the Russian Federation", 28 December 2001.

29 Article 59(3) of the Criminal Code.

30 Article 18 of the Constitution of the Republic of Tajikistan, 6 November 1994.

lation abolishing the death penalty for 10 crimes.<sup>31</sup> The death penalty was retained for five crimes: murder with aggravating circumstances, rape with aggravating circumstances, terrorism, biocide, and genocide.<sup>32</sup> On 1 March 2005, amendments to the Criminal Code were adopted that provide for life imprisonment for these five crimes.<sup>33</sup> The amendments introduce life imprisonment as an alternative to the death penalty for men between 18 and 63 years of age. Women and individuals who are below the age of 18 at the time of the crime cannot be sentenced to death.<sup>34</sup>

On 30 April 2004, the president of Tajikistan announced the introduction of a moratorium on executions, signing a law to that effect on 15 July 2004. The moratorium, which was applicable from the day of its announcement, is not limited to a specific period of time but has been put in place indefinitely. The moratorium applies to those who were sentenced to death prior to 30 April 2004 and to those convicted of crimes for which the death penalty is envisaged after 30 April 2004. In the former case, death sentences were to be commuted to 25 years' imprisonment; in the latter case, a sentence of 25 years' imprisonment was to be imposed instead of the death penalty. As indicated above, however, life imprisonment was also introduced on 1 March 2005 as an alternative to the death penalty.

The Constitution gives the president authority to grant clemency.<sup>35</sup> Death sentences may be commuted to 25 years' imprisonment.<sup>36</sup> Sentences will not be carried out until a decision on clemency has been issued.<sup>37</sup>

#### *Retentionist States*

Belarus,<sup>38</sup> the United States of America,<sup>39</sup> and Uzbekistan are the only OSCE participating States where the death penalty is retained for crimes committed in peacetime, and where legally sanctioned executions are carried out.

#### *Belarus*

The Constitution of the Republic of Belarus provides that, until the abolition of the death penalty, it may be applied in accordance with the law as an exceptional penalty for particularly serious crimes and only in accordance with

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31 Law No. 45 "On amendments to the Criminal Code", 1 August 2003.

32 Articles 104(2), 138(3), 179(4), 399, and 398 of the Criminal Code, 21 May 1998, with amendments of 1 August 2003.

33 Law "On the introduction of amendments to the Criminal Code", 30 November 2004.

34 Article 59(2), Criminal Code, and Law No. 45 "On amendments to the Criminal Code", 1 August 2003.

35 Article 69 (27) of the Constitution. Article 216 of the Criminal Executive Code provides that individuals sentenced to death can apply to the president for clemency.

36 Article 59 of the Criminal Code.

37 The Commission was established by Presidential Decree No. 721, 8 May 1997.

38 Belarus is a party to the ICCPR and the CRC.

39 The United States of America is a party to the ICCPR and a signatory of the CRC and the American Convention on Human Rights.

the verdict of a court of law.<sup>40</sup> The Criminal Code provides that the death penalty may be imposed for severe crimes connected with the deliberate deprivation of life with aggravating circumstances.<sup>41</sup> The death penalty is envisaged for 14 crimes: acts of aggression, murder of a representative of a foreign state or international organization with the intention of provoking international tension or war, international terrorism, genocide, crimes against the security of humanity, use of weapons of mass destruction, violations of the laws and customs of war, murder with aggravating circumstances, terrorism, terrorist acts, treason that results in loss of life, conspiracy to seize power, sabotage, and murder of a police officer.

There is no moratorium on executions. On 11 March 2004, the Constitutional Court concluded its assessment of the compliance of the death-penalty provisions in the Criminal Code with the Constitution, following a request from the House of Representatives of the National Assembly. The Court found a number of provisions of the Criminal Code to be inconsistent with the Constitution,<sup>42</sup> thus providing for the possibility of either the abolition of the death penalty or the imposition of a moratorium on executions as the first step towards full abolition. The Court recalled that such measures may be enacted by the head of state and the National Assembly.

Women and individuals who are below the age of 18 at the time of the crime cannot be sentenced to death.<sup>43</sup>

The Constitution gives the president authority to grant clemency, and the death penalty may be commuted to life imprisonment.<sup>44</sup> Appeals are initially considered by the Clemency Commission.<sup>45</sup>

Relatives are not informed in advance of the date of execution. The body is not returned, and the place of burial is not disclosed.<sup>46</sup>

#### *The United States of America*

The death penalty is retained at the federal level and in the majority of the 50 states.<sup>47</sup> The states that have abolished the death penalty are Alaska, Hawaii, Iowa, Maine, Massachusetts, Michigan, Minnesota, New York, North Dak-

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40 Article 24 of the Constitution of the Republic of Belarus, 27 November 1996.

41 Article 59(1) of the Criminal Code, 9 July 1999. Specific Articles: 122(2), 124(2), 126, 127, 128, 134, 135(3), 139(2), 289(3), 359, 356(2), 367(3), 360(2), and 362 of the Criminal Code.

42 Articles 48 (Part 1, Paragraph 11) and 59 have been found to be inconsistent with the Constitution due to the lack of reference, in those articles, to the temporary character of the death penalty.

43 Article 59(2)(1), Criminal Code. In addition, Article 59(2)(3) also stipulates that men who are over the age of 65 at the time when the sentence is pronounced are exempt from the death penalty.

44 Article 84(19) of the Constitution.

45 Presidential Decree No. 250 "On the introduction of the regulation of provisions for pardoning procedure in the Republic of Belarus", 3 December 1994.

46 Article 175, Criminal Executive Code.

47 The death penalty is also retained in military law for 15 crimes.

ota, Rhode Island, Vermont, West Virginia, and Wisconsin, as well as the District of Columbia.

The United States Code identifies 42 crimes (38 homicide and four non-homicide) for which the death penalty may be used. The crimes that carry the death penalty differ from state to state, although all states which retain the death penalty envisage it for murder.<sup>48</sup> The Uniform Code of Military Justice allows for the death penalty as a possible punishment for 15 offences, many of which must occur during a time of war.

There is no moratorium on executions in place at the federal level. At the state level, Illinois is the only state that has instituted a moratorium on the use of the death penalty.

Pregnant women cannot be executed under federal or state law. At the federal level, individuals who are below the age of 18 at the time of the crime cannot be sentenced to death.<sup>49</sup> On 1 March 2005, the US Supreme Court took a decision to abolish the death penalty for defendants who were under the age of 18 when they committed their crimes.<sup>50</sup> This decision applies to the state and federal levels.

The US Supreme Court has ruled that the execution of an insane person – somebody who is not aware of the impending execution or the reasons therefore – violates the US Constitution.<sup>51</sup> Furthermore, the US Supreme Court has also ruled that the execution of a mentally retarded person violates the US Constitution.<sup>52</sup>

At the federal level, the president has the authority to grant clemency, and, at the state level, the respective governor has the authority to grant clemency, although the process differs from state to state.

### *Uzbekistan*

The death penalty is envisaged for two crimes:<sup>53</sup> murder with aggravating circumstances and terrorism.<sup>54</sup> Women and individuals who were below the age of 18 at the time of the crime cannot be sentenced to death.<sup>55</sup>

On 1 August 2005, President Islam Karimov signed a decree on the abolition of the death penalty as of 1 January 2008.<sup>56</sup> The decree envisages that, from 1 January 2008, the death penalty shall be abolished in Uzbekistan as a type of criminal punishment, instead, punishment in the form of life, or

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48 A complete list of capital crimes can be found at [www.deathpenaltyinfo.org](http://www.deathpenaltyinfo.org).

49 18 U.S.C. § 3591(a)(2)(D), 18 U.S.C. § 3591 (b)(2).

50 *Roper v. Simmons*, 543 U.S. (2005).

51 *Ford v. Wainwright*, 477 U.S. 399 (1986).

52 *Atkins v. Virginia*, 536 U.S. (2002).

53 Article 51 of the Criminal Code, 22 September 1994, with further amendments as of 29 September 2004.

54 Articles 97 (2) and 155 (3) of the Criminal Code.

55 Article 51 of the Criminal Code. This article also stipulates that men over the age of 60 at the time of sentencing cannot be sentenced to death.

56 Decree of the President of the Republic of Uzbekistan “On abolition of the death penalty in the Republic of Uzbekistan”, 1 August 2005.

long-term, imprisonment shall be introduced.<sup>57</sup> There is no moratorium on executions.

Death sentences can be commuted to 25 years' imprisonment.<sup>58</sup> Sentences are not carried out until a decision on clemency has been issued.

Relatives are not informed in advance of the date of execution. The body is not returned, and the place of burial is not disclosed.<sup>59</sup>

### *International Standards on the Death Penalty*

This section provides an overview of the international standards on the death penalty that have been developed by the United Nations, the European Union, the Council of Europe, and the OSCE. These international standards either abolish the death penalty or restrict its use.

#### *United Nations*

The International Covenant on Civil and Political Rights (ICCPR)<sup>60</sup> recognizes the death penalty as a permissible exception to the right to life.<sup>61</sup> However, the ICCPR provides that no one shall be deprived of the right to life arbitrarily and lists a number of specific restrictions and limitations on the use of the death penalty. A death sentence may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime, in a manner not contrary to the provisions of the ICCPR. The death penalty may be carried out only pursuant to a final judgement rendered by a competent court, and anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. The death penalty shall not be imposed for crimes committed by persons below 18 years of age and shall not be carried out on pregnant women.

These specific restrictions and limitations have been interpreted by the Human Rights Committee in its concluding observations on state party reports, in its General Comment No. 6, and in its jurisprudence on individual

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57 Uzbek and international human rights organizations welcomed the decree but expressed concerns about the fate of those who have been already sentenced and those who will be sentenced until 2008. They have called for an immediate moratorium on executions and for the sentences to be commuted to life imprisonment.

58 Article 93 of the Constitution and Article 51(3) of the Criminal Code. Regulation on the Procedure of Granting Clemency in the Republic of Uzbekistan. Approved by Decree of the President of the Republic of Uzbekistan NYII-1839, 11 September 1997.

59 This information is regarded as a state secret in accordance with Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 239-33 "On measures of protection of state secrets of the Republic of Uzbekistan", 5 May 1994, and article 140 of the Criminal Executive Code.

60 UN General Assembly Resolution 2200 A (XXI) of 16 December 1966. Entered into force on 23 March 1976.

61 Article 6 of the ICCPR.

complaints.<sup>62</sup> In addition, the limitations have also been interpreted and expanded upon in documents produced by other UN bodies, in particular, in the ECOSOC Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty<sup>63</sup> and in the annual resolutions of the Commission on Human Rights on the question of the death penalty.<sup>64</sup>

Since the adoption of the ICCPR, steps have been taken to develop a legally binding instrument that requires the abolition of the death penalty. Accordingly, the UN has adopted the Second Optional Protocol to the ICCPR,<sup>65</sup> which abolishes the death penalty during peacetime. Forty-one OSCE participating States have ratified the Second Optional Protocol.

Resolution 2005/59 of the Commission on Human Rights called upon all states that still retain the death penalty to abolish it completely and, in the meantime, to establish a moratorium on executions.<sup>66</sup> It also stated that abolition of the death penalty is essential for the protection of the right to life.

### *European Union*

The abolition of the death penalty is a prerequisite to accession to the EU.<sup>67</sup> Article 2 of the Charter of Fundamental Rights of the European Union,<sup>68</sup> which is politically binding on EU member states, provides that no one shall be condemned to death or executed.

The European Union also takes an active stance against the death penalty in its relations with accession countries and third countries. It has developed Guidelines on European Union policy towards third countries on the death penalty.<sup>69</sup> These Guidelines contain a list of minimum standards on the use of the death penalty.

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62 General Comment No. 6, adopted at the 16th session of the Human Rights Committee, 1982.

63 Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, UN Economic and Social Council Resolution 1984/50, adopted on 25 May 1984.

64 The most recent resolution of the Commission on Human Rights on the question of the death penalty is Resolution 2005/59, 20 April 2005. The Commission on Human Rights was replaced by the UN Human Rights Council on 15 March 2006.

65 UN General Assembly Resolution 44/128 of 15 December 1989. Entered into force on 11 July 1991. Article 2 of the Second Optional Protocol provides that no reservation is admissible except for reservations made at the time of ratification or accession that provide for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime.

66 Resolution of the UN Commission on Human Rights 2005/59, 20 April 2005, paragraph a.

67 The abolition of the death penalty for peacetime crimes is an element of the Copenhagen Criteria for accession countries to the European Union.

68 The presidents of the European Parliament, European Council, and European Commission signed and proclaimed the Charter on behalf of their institutions on 7 December 2000 in Nice, France.

69 General Affairs Council, Luxembourg, 29 June 1998.

The European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) does not require the abolition of the death penalty.<sup>70</sup> The text of the ECHR itself places no explicit restrictions on the use of the death penalty, save that it can only be carried out following conviction by a court of a crime for which the death penalty is provided by law. However, the European Court of Human Rights has interpreted both Article 2 (right to life) and Article 3 (prohibition of torture) of the ECHR as placing certain limitations on the use of the death penalty.<sup>71</sup>

Since the adoption of the ECHR, steps have been taken to develop legally binding instruments that do abolish the death penalty. In 1985, Protocol No. 6 to the ECHR, which abolishes the death penalty during peacetime, entered into force.<sup>72</sup> The Protocol is open for ratification by member states of the Council of Europe, and all new member states of the Council of Europe are required to ratify Protocol No. 6 within a certain time limit.<sup>73</sup> As of today, 45 OSCE participating States (the exception being the Russian Federation) have ratified Protocol No. 6.<sup>74</sup>

Eight years later, Protocol No. 13 to the ECHR,<sup>75</sup> which is the first legally binding instrument that abolishes the death penalty in all circumstances, including in time of war, entered into force. As of today, 36 OSCE participating States have ratified Protocol No. 13.

#### *Organization for Security and Co-operation in Europe*

OSCE commitments do not require the abolition of the death penalty. However, OSCE participating States have committed themselves to impose the death penalty only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and in a manner not contrary to their international commitments.<sup>76</sup> OSCE participating States have also committed themselves to make information regarding the use of the death penalty available to the public.<sup>77</sup>

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70 ETS No. 005. Entered into force on 3 September 1953.

71 Article 3 of the ECHR prohibits torture and inhuman or degrading treatment or punishment.

72 ETS No. 114. Entered into force on 1 March 1985. Article 2 of Protocol No. 6 provides that a state may make provision in its law for the death penalty for acts committed in times of war or of imminent threat of war.

73 Resolution 1044 (1994) of the Parliamentary Assembly of the Council of Europe on the Abolition of Capital Punishment, 4 October 1994.

74 All 46 member states of the Council of Europe are also OSCE participating States.

75 ETS No. 187. Entered into force on 1 July 2003.

76 *Concluding Document of the Vienna Meeting 1986 of Representatives of the Participating States of the Conference on Security and Co-operation in Europe*, Vienna 1989, para. 24.

77 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 17.8., p. 451.

The ODIHR assists the OSCE participating States in the implementation of their human dimension commitments, including those commitments they undertook with respect to the use of the death penalty. The ODIHR aims to increase transparency on the use of the death penalty as well as compliance with international safeguards, while also facilitating the exchange of information about the abolition of the death penalty.

As a forum for participating States to make such information available, the ODIHR produces a yearly review entitled “The Death Penalty in the OSCE Area”,<sup>78</sup> which is intended to provide a comprehensive overview of the use of the death penalty throughout the OSCE region based primarily upon information provided by the participating States themselves. The ODIHR co-operates with OSCE field missions to monitor the compliance with international standards.

The Office also facilitates discussion on death penalty issues, particularly in countries of the former Soviet Union.

Central Asia is one of the regions where ODIHR experts have encouraged discussion on the death penalty. Here, the ODIHR, in co-operation with the European Commission and OSCE field missions, is in the process of implementing a programme that facilitates the exchange of information on the death penalty and its alternatives, and also encourages compliance with international standards in those countries that retain the death penalty.

In September 2002, the ODIHR co-organized an international conference in Kazakhstan. As a result of this conference, a Consultative Council was formed, consisting of relevant government officials, NGOs, and international experts. In 2003, the ODIHR co-funded a nationally televised debate and a publication on legislation and statistics relating to the death penalty; in February 2003 it helped organize a training session for NGOs and state officials on how to run information campaigns on the subject. As a follow-up to the training session, some participants took part in the national information campaign on the issue of the death penalty launched by the government of Kazakhstan in 2003. In July 2004, the ODIHR supported the organization of a round table in Kazakhstan on the rights of people sentenced to capital punishment, focusing on the rights of those affected by the moratorium on the death penalty in Kazakhstan.

To promote informed discussion on the death penalty and its abolition, the Office, in co-operation with the European Commission and the BBC, developed a series of radio programmes that were broadcast in Kyrgyzstan and Uzbekistan, in both the Uzbek and Kyrgyz languages. The programmes pro-

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78 The latest publication in English and Russian can be viewed at: [http://www.osce.org/odihr/item\\_11\\_20721.html](http://www.osce.org/odihr/item_11_20721.html).

vided a broad forum for debate on the issue of the death penalty and its abolition.

In November 2005, the ODIHR co-organized an international conference on alternatives to the death penalty in Central Asia, where 85 governmental and non-governmental actors from Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan addressed relevant issues and developed recommendations for future actions.<sup>79</sup>

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<sup>79</sup> Detailed information about ODIHR activities can be found in the ODIHR Annual Reports at: <http://www.osce.org/odihr/publications.html?lsi=true&limit=10&grp=334>.

## Double or Treble Human Rights Protection? The Interplay of OSCE Standards with Other Systems of Norms

In 1975, the Final Act of Helsinki was seen as epochal because it declared the protection of human rights to be a principle of security and co-operation in Europe. The key formulation was contained in Principle VII:

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.<sup>1</sup>

Politicians (in the West) and the people in the Socialist states eagerly seized upon this formula, and many celebrated it as a major breakthrough.<sup>2</sup> That it actually was such became evident at the end of the 1980s, as the stipulations of the Helsinki Final Act with respect to human rights became an instrument for overcoming the division of Europe.<sup>3</sup> Although the political effect of the Final Act was powerful and ultimately contributed a great deal to the overthrow of Communism, the actual human rights that it asserts were by no means new.

### *Does the Final Act Merely Reiterate UN Obligations?*

The Charter of the United Nations already obliges states to respect human rights and, in Article 13, empowers the General Assembly to initiate studies and make recommendations to assist in the realization of human rights and fundamental freedoms for all, irrespective of race, gender, language, or religion. Thus, in 1945, human rights became an object of international law for the first time in history. Previously, they had been exclusively the domestic affairs of states, in which no other state had a right to interfere. The grievous million-fold human rights violations committed by the National Socialists, however, made the international community starkly aware that the effects of

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1 Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 141-217, here: p. 147.

2 Cf. the evidence in Arie Bloed, *Two Decades of the CSCE Process: From Confrontation to Co-operation*, in: Bloed (ed.), cited above (Note 1), pp. 1-118, here: pp. 40-44.

3 Cf. Walter Schwimmer, *Der Traum Europa* [The Dream of Europe], Berlin 2004, p. 88.

such inhuman practices cross national borders and threaten peace and that they therefore needed to be made the remit of an international security organization. This explains the inclusion of human rights in the UN Charter. Admittedly, the stipulations made in the Charter in 1945 remained very general. Above all, the concept of human rights was very unclear, as at least three different concepts of human rights were incorporated in the document: the Western, the Socialist, and that of the (at that time few) developing countries. Therefore, in 1948, this was followed by the Universal Declaration of Human Rights, whose 28 Articles contain an exact catalogue of the human rights that should be protected by the UN. Because it was a resolution of the UN General Assembly, the Declaration was non-binding in formal legal terms but remained at the political level. The UN began the task of codifying human rights in 1949, immediately following the acceptance of the Declaration, which led to a whole system of treaties under international law. This system is based upon the twin poles of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights. The Covenants were adopted by the General Assembly as early as 1966 and took effect in 1976 thanks to their ratification by 35 states – including most of the Socialist countries.

It follows that the 1975 Helsinki Final Act only reiterated human rights commitments that had already been the object of an international treaty since 1966 and were recorded in UN reports. By 1976, they were also recorded in the statute books of all UN member states, including those of the Socialist countries. It is therefore necessary to ask where the explosive power of the Helsinki Final Act came from, if it only repeated what was already well known. The chief reason was that resolutions made within the scope of the UN were unknown to a broad public. CSCE documents had a very different readership from dry-as-dust law gazettes and UN reports. They spoke to the people, who felt themselves addressed by CSCE documents, which were formulated in language they could understand. Furthermore, the Final Act was not published in law gazettes but in national newspapers and had a large print run. With respect to the Helsinki Final Act, therefore, we can state that it was above all the difference in readership that justified repeating state commitments that had already been made in the context of the UN. This approach was later to be adopted as a rule thanks to the CSCE/OSCE. However, there were additional reasons for the reinforcement of human-rights commitments, as is most apparent in relation to the protection of minorities.

The protection of minorities remained a taboo topic for a long time in the aftermath of the Second World War.<sup>4</sup> Causes of this were the experience with the system of minority protection of the League of Nations, which had been created in the aftermath of the First World War. It framed the protection of minorities in terms of group rights, which opened the door for minority protection to be abused in order to destabilize the young and weak states created out of the collapse of Austria-Hungary and the Ottoman Empire. The destruction of Czechoslovakia in 1938 as a consequence of Nazi Germany's policy of conquest was a prime example.

The founding of the UN saw a turn away from group rights towards the rights of individuals. During the drafting of the ICCPR in the 1960s, the concept of applying individual rights to minorities won out. Although this was frequently criticized in the specialist literature,<sup>5</sup> it made it possible to overcome the stalemate in the codification of minority protection. The result of lengthy debates is contained in Article 27 of the ICCPR:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.<sup>6</sup>

This approach, which granted legal rights not to groups, but to the individual members of a minority, proved to be a success. The Covenant's 156 States Parties accepted the obligation with only two exceptions (France and Turkey).<sup>7</sup> The Covenant obliges the 154 states to report to the Human Rights Committee upon legislative, judicial, and administrative measures every five years. This establishes a procedure to enforce minority rights by way of a discussion between the Committee and the State Party concerned. In addition, persons belonging to minorities living in states that have ratified the Optional

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4 As late as 1972, Felix Ermacora could rightly state that "the state representatives in the Council of Europe treat questions of the protection of ethnic groups or minorities as though they were a 'disreputable business'". Felix Ermacora, *Der Minderheiten- und Volksgruppenschutz vor dem Europarat* [The Protection of Minorities and Ethnic Groups at the Council of Europe], in: Theodor Veiter (ed.), *System eines internationalen Volksgruppenrechts* [A System of International Rights for Ethnic Groups], vol. 3, Part II, Vienna 1972, p. 77 (author's translation).

5 Cf. Johannes Niewerth, *Der kollektive und der positive Schutz von Minderheiten und ihre Durchsetzung im Völkerrecht* [Collective and Positive Minority Protection and Its Implementation in International Law], Berlin 1996, pp. 96-97.

6 International Covenant on Civil and Political Rights, at: <http://www.ohchr.org/english/law/ccpr.htm>.

7 France and Turkey have entered reservations regarding Article 27. Cf. [http://www.ohchr.org/english/countries/ratification/4\\_1.htm](http://www.ohchr.org/english/countries/ratification/4_1.htm).

Protocol to the Covenant<sup>8</sup> may enter an international complaint against their own state if their rights have been infringed and they have exhausted all available domestic legal means of redress. That is true of 105 states, at least. If we recall that most international treaties do not include a procedure for their enforcement, then we must agree that it is astonishing that such a procedure has been established precisely for the “hot potato” of human rights, and minority protection in particular.

However, neither the state-reporting procedure nor the procedure for individual complaints is a fact-finding mechanism. Both rather rely upon information provided by the reporting state and its willingness to co-operate with the Committee. Victims of human rights violations are not heard. The weakness of the reporting procedure is demonstrated clearly by the fact that, as late as 1979, Yugoslavia was able to evade further discussion of its minorities policy in the Human Rights Committee by making the following general statement: “Replying to the questions concerning the position of minorities, the representative of Yugoslavia said that his Government had adopted special measures to further the economic and social development of the areas inhabited by minority groups about which fuller account would be given in the next periodic report.”<sup>9</sup> This example illustrates the use of diplomatic language to conceal the weaknesses of the reporting process. These were especially unfortunate for the individuals affected: They had no further means of seeking redress at an international level because Yugoslavia had not ratified the procedure for individual complaints contained in the Optional Protocol.

During the 1980s, the discrepancies between the actual situation in Yugoslavia and the government’s official portrayal became increasingly obvious. However, the dominance of sovereignty-based thinking and the formal regulations of relevant UN instruments left no opportunity for reacting to minority rights violations. As a result, the UN’s human rights instruments were no more able to prevent the break-up of Yugoslavia with all the tragic consequences that this brought for the country’s population. Nor were they able to hinder the dissolution of the USSR. The experience of the disintegration of these two states led to the question being raised of how to establish new and more flexible instruments and, above all, to create them quickly. This last criterion ruled out the UN as the forum for creating such instruments, as the codification of international law is not only generally a lengthy process, but also requires the ratification by the states.

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8 Cf. the list of states at: <http://www.ohchr.org/english/countries/ratification/5.htm>.  
9 UN Doc. A/34/18, para. 217.

The human rights principle of the Helsinki Final Act already contains a reference to minorities. Paragraph 4 of Principle VII calls upon participating States with national minorities on their territory to “afford [persons belonging to such minorities] the full opportunity for the actual enjoyment of human rights and fundamental freedoms and [...] in this manner, [to] protect their legitimate interests in this sphere”.<sup>10</sup> The Final Act thus accords with the spirit of Article 27 of the ICCPR without duplicating its provisions. Rather, it limits the protection to *national* minorities, i.e. groups that are characterized by the existence of a “kin state” or “mother country”. The Hungarian populations of Slovakia and Romania are national minorities of this kind and demonstrate the potential political tensions that may be associated with the existence of a national minority.

The CSCE’s approach towards minority protection in the Final Act was more limited than that of the UN to the extent that it deliberately restricted its reference to national minorities and the inter-state aspect of minority issues, thereby underlining that it considered itself first and foremost as a security organization. Later developments in Yugoslavia, where the rights of national minorities played a particularly important role in the outbreak of conflict, leading to genocide and “ethnic cleansing” on a massive scale, tragically confirmed just how necessary and sensible the CSCE’s approach was.<sup>11</sup> A further difference from the UN is that the Final Act does not ascribe religious, cultural, and linguistic rights to persons belonging to minorities, but restricts itself to calling for non-discrimination. However, this is not the fault of any aversion to culture in the Final Act, but an effect of its structure. In other sections – and specifically in basket 3 under the heading of human rights – the Final Act certainly does demand respect for the cultural rights of members of national minorities.

Overall, the Final Act cannot be seen as merely repeating the standards of the ICCPR. The regional CSCE document is rather focused on the specific situation in Europe. The Final Act also has a different status from the Covenant, which is a treaty under international law, but had not entered into force by 1975 and could thus not exert binding force on member states. The Final Act thus filled a gap. This is also generally true of the period following the entry into force of the ICCPR in 1976, as the Covenant was at first only binding on 35 states, and it was a long time before all CSCE states became members. Furthermore, it should be noted that, while the Covenant had a legally binding effect on members, ignorance of its stipulations and the need to

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10 Final Act of Helsinki, cited above (Note 1), p. 146.

11 In the light of subsequent events, it is remarkable that, during the negotiations of the Helsinki Final Act, Yugoslavia of all countries argued in favour of the most radical provisions for the protection of minorities. Cf. Jan Hegelsen, Protecting Minorities in the Conference for Security and Co-operation in Europe (CSCE) Process, in: *International Journal on Group Rights* (2) 1994, p. 7.

establish the means of enforcement meant that it also created some grey areas. In contrast, the Final Act developed a very strong political and moral binding force after it was solemnly signed in 1975 by the Heads of State or Government in the full glare of the world's media – a fact that made many governments feel obliged to turn its stipulations into actions.

Overall, the CSCE's concern with the issue of minorities can be considered useful and not merely a recapitulation of existing standards. Nonetheless, above all given the escalation of minorities-related problems in the Balkans since the 1980s, it became evident that further CSCE initiatives were necessary. However, calls for these were opposed by the Socialist states, as well as by France and Turkey, which rejected the entire concept of the protection of minorities. Consequently, only minor improvements to the Final Act could be made at follow-up meetings of the CSCE States.<sup>12</sup>

Nonetheless, these small steps were more than the UN was able to achieve by persisting with the ICCPR in an unchanged form and, in addition to that, merely publishing several surveys produced by the Human Rights Subcommission. It was only with the collapse of the Eastern Bloc that a new "window of opportunity" opened thanks to the elimination of one of the most powerful opponents of robust minority protection. The CSCE acted in a unique way to take advantage of this opportunity, which must be considered a further demonstration of the incredible flexibility of this institution.

#### *The CSCE as a Taboo Breaker: The Copenhagen Document of 1990*

The key breakthrough, which until it occurred had not been thought possible, must be considered to be the adoption of the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (Copenhagen Document) on 29 June 1990. Formulated during the collapse of the Eastern Bloc, it contains several quite astonishing (and highly apposite) provisions. Just one year earlier, a document of this kind, with such subversive contents, would have vanished into the secret files of the Socialist protectors of ideological purity. It should therefore be no surprise that it was greeted euphorically by both politicians and experts as a signal of the creation of a liberal European community of values.<sup>13</sup> The enthusiasm was perfectly justified, as the Copenhagen Document linked the criteria for democratic statehood and the rule of law with those for the protection of human rights and minorities. This underlined the fact that genuine democracy included respect

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12 Cf. Christiane Höhn, *Zwischen Menschenrechten und Konfliktprävention. Der Minderheitenschutz im Rahmen der OSZE* [Between Human Rights and Conflict Prevention, the OSCE and Minority Protection], Berlin 2005, pp. 13ff.

13 Cf. Alexis Heraclides, The Human Dimension's Swansong in Helsinki-II: The Normative Aspect with Emphasis on National Minorities, in Arie Bloed (ed.) *The Challenge of Change: Helsinki Summit of the CSCE and its Aftermath*, Dordrecht 1994, pp. 283-303, here: p. 285.

for minority rights. Respect for the rights of persons belonging to national minorities was explicitly declared to be an essential factor for peace, justice, stability, and democracy in the participating States. The CSCE States committed themselves to adopting “special measures for the purpose of ensuring to persons belonging to national minorities full equality with the other citizens”.<sup>14</sup> Individuals are granted the right to decide if they want to belong to a national minority or not. The use of their mother tongue, the free exercise of religion, the guarantee of unimpeded contacts across frontiers with citizens of other states with whom they share a common ethnic or national origin, cultural heritage, or religious beliefs, freedom of association, and the right to engage in cultural and educational activities in their mother tongue are mentioned alongside protection and promotion of the identity of national minorities and the establishment of local and autonomous administrative entities. Thus, the Copenhagen Document – although applying to a different group of states (one that also considered itself as a community of values) and possessing a different legal status (once more, we are concerned here with a politically binding document) – goes far further than the ICCPR.

The Charter of Paris confirmed the Copenhagen Document that same year. However, it became apparent afterwards that the CSCE could not sustain the tempo with regard to the acceptance of minority rights and the establishment of relevant standards. After the initial euphoria over Europe’s new common democratic values, the window of opportunity had closed. The opponents were creating a new formation that cut across the old division between East and West. This became evident as early as July 1991 at the CSCE Meeting of Experts on National Minorities in Geneva, where an alliance of former Eastern Bloc states (Bulgaria, Romania, and Yugoslavia) emerged that, just like France, Greece, and Turkey, sought to abandon the Copenhagen standards. The final document of the Geneva meeting shows that this opposition was not entirely unsuccessful: “[The participating States] note that not all ethnic, cultural, linguistic or religious differences necessarily lead to the creation of national minorities.”<sup>15</sup> Once again, thinking in terms of national sovereignty had trumped concern for minority protection.

Nonetheless, the relationship between democracy and minority protection was now on the European and global agendas: With the Copenhagen Document, the CSCE had broken a taboo. In doing so, it threw down the gauntlet not only to a number of individual states, but also to other (well-established) international organizations, who are extremely proud of their achievements in human rights protection. They felt the need to take up this challenge and defend their positions. At the same time, the minority conflicts

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14 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, in: Bloed (ed.), cited above (Note 1), pp. 439-465, here: p. 456.

15 Report of the CSCE Meeting of Experts on National Minorities, in: Bloed (ed.), cited above (Note 1), pp. 593-604, here: p. 596.

in Yugoslavia and other formerly Socialist states had escalated, and the public expected politicians to take decisive measures.

*The Gauntlet Is Picked up: The Race to Find the Best Instrument*

The Council of Europe, which considered itself to be the cradle of European human rights protection, felt itself challenged by the CSCE's innovativeness. On behalf of the Council of Europe, the Venice Commission worked astonishingly quickly to draw up a document that is truly revolutionary in two respects. First, it contains a definition of a minority, ascribing each with group rights. This approach differs from that of every other instrument related to minorities, all of which have had to forego definitions and group rights owing to the resistance of many states. Second, it took the form of a treaty under international law, specifically that of a protocol to the European Convention on Human Rights (ECHR). Had the protocol been accepted, the enforcement mechanism of the ECHR would also have applied to minority rights. This would have made it possible for persons belonging to minorities to appeal to the European Court of Human Rights in cases where the protocol was violated.

If this protocol had been accepted by the states, it would have been a "Copernican revolution" in approach, in particular because it would have made minority rights enforceable. However, this revolution did not take place, as the document was only adopted by the Parliamentary Assembly of the Council of Europe as Recommendation 1201. The second and decisive step, adoption by the Committee of Ministers, failed. This body did not even consider the Recommendation,<sup>16</sup> because the Council of Europe summit had resolved to draw up a completely new treaty that differed from Recommendation 1201 in three key respects: Instead of a protocol to the ECHR, it was to be a framework convention that contained no specific obligations but rather delimited a general framework to be filled out and translated into specific measures by each state. Consequently, the European Court of Human Rights cannot be invoked in a case where the framework convention is violated. Nor does the document contain a definition of a minority, but rather leaves this to the member states.

If we contrast the initial vision of the Council of Europe and the final result, we might be reminded of an elephant that went into labour and delivered a mouse. Nevertheless, we should not undervalue what was achieved. The 32 Articles that make up the five Sections of the 1995 Framework Convention for the Protection of National Minorities may be unenforceable, but the Convention requires the member states to frame national laws in ways

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16 Heinrich Klebes, Der Entwurf eines Minderheitenprotokolls zur EMRK [The Draft Protocol to the ECHR on the Protection of Minorities], in: *Europäische Grundrecht-Zeitschrift* 16 (1993), p. 149.

that conform with its stipulations. The flexibility that this enables makes the Convention a “living instrument”, enabling it to adapt to the changing needs of national minorities.<sup>17</sup>

Aside from the fact that it is a binding treaty under international law, the major factor distinguishing the Framework Convention from OSCE documents is the existence of a mechanism for implementation. This requires member states to submit reports giving full information on legislative and other measures taken to fulfil their obligations under the Convention. The Committee of Ministers, assisted for this purpose by an advisory committee, shall make a legally binding assessment of whether the member states have taken appropriate steps to fulfil their obligations. This mechanism goes far beyond anything that can be called upon for the implementation of OSCE commitments. The extensive nature of the consequences have been demonstrated in practice.<sup>18</sup>

In general, the Framework Convention can be considered as the Council of Europe’s answer to the gauntlet thrown down by the CSCE/OSCE. But the UN also considered itself to be challenged by the latter organization. This finds expression in Resolution 47/135 of the General Assembly, adopted in 1992, which contains a Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. This document has just as little binding legal force as those of the OSCE, but obtains a certain legal force through being an interpretation of Article 27 of the ICCPR. The Declaration devotes nine articles to a matter that received merely two sentences in the ICCPR. The fact that this interpretation only became possible in 1992, i.e. 16 years after the ICCPR came into force, suggests that we are now witnessing a more assertive approach to minority questions – including at the level of universal rights.<sup>19</sup> This view is confirmed by the adoption in 1994 by the Human Rights Committee, which is responsible for the enforcement of Article 27, of “General Comment 23”,<sup>20</sup> in which the obligations of member states are analysed in detail.

In general, we can conclude that the Council of Europe and the UN have remained true to their traditional approaches to human rights protection under international law, while extending this protection to the once taboo subject of minority protection. New treaties have been created, existing ones interpreted, and enforcement mechanisms created. The great advantage is to

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17 Rainer Hofmann, Die Rahmenkonvention des Europarates zum Schutz nationaler Minderheiten [The Council of Europe Framework Convention for the Protection of National Minorities], in: *Menschenrechts-Magazin* 2 (2000), p. 12.

18 Cf. Heinrich Klebes, Minderheitenschutz durch den Europarat: Richtungswechsel durch „Entrechtlichung“ von Verträgen? [Minority Protection via the Council of Europe: A Change in Direction via the “Delegalization” of Contracts?], in: Hans-Joachim Heintze (ed.), *Moderner Minderheitenschutz – Rechtliche oder politische Absicherung?* [Modern Minority Protection – Legal or Political Safeguards?], Bonn 1998, p. 138

19 Cf. Ian Phillips/Allan Rosas (eds), *The UN Minority Rights Declaration*, Turku 1993, pp. 54ff.

20 UN Doc. CCPR/C/21/Rev.1/Add.5.

have considerably clarified the obligations of member states, while publicly demanding their fulfilment.

*The OSCE Blazes Another Trail: Innovative Institutionalization*

Following the CSCE's success in placing the issue of minorities on the international agenda, at its 1992 Helsinki Summit, it again developed an original approach that distinguished it clearly from other international organizations. Against the background of a number of escalating conflicts, the CSCE underlined its competency in the area of conflict prevention. In the Balkans, it had become apparent that it was extremely difficult to influence ethnic conflicts from outside once they had broken out. The international community therefore clearly had to focus on timely intervention. Henceforth, the CSCE would no longer see minority protection as above all a matter of human rights, but as an issue of security policy. It would add this to the field of conflict prevention in which the CSCE could display considerable experience. Consequently, the Helsinki Summit resolved in 1992 to establish the post of High Commissioner on National Minorities (HCNM). Thereafter, the HCNM was to be responsible for early warning and conflict prevention in relation to minorities.<sup>21</sup>

By creating a post for the prevention of minority conflicts, the CSCE followed a completely different path from the UN and the Council of Europe, which, by creating instruments for the protection of individual members of minorities, had chosen a road based on human rights. By contrast, the HCNM's security-related task explicitly and deliberately does not involve considering the rights of individual members of minorities or their group rights,<sup>22</sup> but rather deals with situations in which minority-related issues can become a threat to peace. In accordance with his mandate, the HCNM monitors the situation in the OSCE area and offers his services wherever he believes a situation is in danger of escalating into a conflict. Given the increasing seriousness of the situation in the Balkans, this idea could not simply be rejected. However, those Western states facing problems with their own minorities were concerned to ensure that the HCNM did not have the right to become involved with their situations. That was why France (Corsica), Spain (Basques), Turkey (the Kurds), and the UK (Northern Ireland) worked to limit the HCNM's mandate to *national* minorities by arguing that only these cases had the necessary inter-state dimension. This, however, was not sufficient, as an inter-state dimension did in fact exist, at least in the case of Northern Ireland. The HCNM's mandate was therefore also framed to pro-

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21 Cf. Jacob Haselhuber, *Institutionalisierung ohne Verrechtlichung: Der Hohe Kommissar für Nationale Minderheiten [Institutionalization without Legal Character: The High Commissioner on National Minorities]*, in: Heintze (ed.), cited above (Note 18), pp. 116ff.

22 This is illustrated by the deliberate choice of the designation High Commissioner *on* (and not *for*) National Minorities.

hibit him from taking action in cases where organized terrorism played a role. This finally limited the mandate to the formerly Socialist countries and was accepted by consensus.<sup>23</sup> Achieving the agreement of the other states may have been made easier by the fact that the HCNM was created to be an instrument of silent diplomacy, i.e. all his activities are confidential until the affected state agrees to their being publicized.

In the end, with the exception of Greece, the HCNM has not concerned himself with any Western state, but has made a major contribution to alleviating the problems of the former Eastern Bloc countries. He achieved this, above all, by visiting the states where he considered a conflict may have been brewing, and talking to the governments and representatives of minorities. The ultimate effect of this was to prevent conflicts in Slovakia, Romania, and Estonia – to name but three examples – from becoming violent. The HCNM thus proved to be an important instrument for conflict prevention and his work a success story.<sup>24</sup> Nonetheless, the picture would not be complete without mentioning that the HCNM also commissioned experts with the development of a number of recommendations that have led to the (positive) experiences of the international community in various aspects of minority protection, including education, language, and political participation, being gathered and presented to the states in the form of “best practices”. This has made it possible to provide a stimulus to all OSCE States.

The innovative concept of the HCNM and his successful activities have helped open the door to EU membership for many states with which he was at one time involved. As a consequence, their minority-related problems – such as still exist – are again removed from the arena of security policy, in which format they were dealt with by the CSCE/OSCE, to the sphere of human and minority rights. From then on, UN and Council of Europe instruments seem to come into play.

#### *Closing Remarks*

It is only at first glance that the activities of international organizations appear to be causing inflation in human rights standards, leading to double and treble regulation. A closer look reveals that there is indeed an eminently sensible division of tasks among the various actors. The protection of minorities is most successful when it becomes the object of global and European cooperation through both international treaties and agreements of a political

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23 Cf. Hans-Joachim Heintze, *Minorities in Western Europe – (Not) a Subject for the OSCE?* In: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1997*, Baden-Baden 1998, pp. 215-226.

24 Cf. Pál Dunay, *The OSCE in Crisis*, Chaillot Paper No. 88, Paris 2006, p. 55.

nature.<sup>25</sup> If UN and Council of Europe accords are typical of the former, the OSCE is responsible for political instruments. Despite all their many differences, the two types of instrument have identical goals: They both aim to improve the coexistence of majorities and minorities and to prevent or resolve potential conflicts. The means they employ to achieve this are, however, different. The norms they develop address different groups, and the binding force varies. It has become clear that the political norms of the CSCE/OSCE have often been more effective than legally binding provisions. A consideration of state practice shows that legal norms are not always more effective *per se*. The OSCE has been particularly good at acting innovatively and flexibly to fill existing gaps and uncover shortfalls. The fact that other institutions that are slower-moving or have a strong sense of tradition felt moved to follow the OSCE and take up this issue using their own methods only shows that the established organizations need an “ice-breaker” such as the OSCE.

The OSCE has also scored another success, albeit unintentionally. One result of the network of treaties between European states (within and outside the EU) that has grown rapidly in recent years has been an increasing tendency for juridification of the political agreements made within the scope of the OSCE. This is partly a result of the estoppel principle in international law, which protects states’ trust in certain justified expectations in their international dealings. The OSCE’s documents on minority protection, in particular, must now make it difficult for states to go back on their promises, as this would amount to abuse of right. The application of this principle means that states have made self-binding promises.<sup>26</sup> But this jurisprudential argument is not the only evidence of the increasing juridification of OSCE norms that can be mobilized. The EU has also quite openly drawn upon the OSCE’s sub-legal norms in determining the readiness to accede of candidate states, thereby lending them a very specific importance. It should also be noted that even the UN Security Council referred to OSCE norms in its binding Resolution 740 (1992),<sup>27</sup> as well as that in the treaties on good neighbourly relations between European states, OSCE norms were expressly declared to be legally binding in a bilateral context.<sup>28</sup>

Juridification is a quite astonishing consequence of the flexible and unconventional activities of the OSCE. The taboo subject of minorities was not only made respectable by the CSCE/OSCE, but, through the back door – i.e.

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25 Cf. Brigitte Reschke, Minderheitenschutz durch nichtvertragliche Instrumente: Soft Law im Völkerrecht? [Minority Protection through Non-Contractual Instruments: Soft Law in International Law?], in: Heintze (ed.), cited above [Note 18], p. 56.

26 Cf. Höhn, cited above (Note 12), p. 234.

27 Cf. 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 1996, pp. 411-427, here: pp. 417-418.

28 Cf. Hans-Joachim Heintze, Rechtliche oder politische Absicherung von Minderheitenrechten? [Legal or Political Safeguarding of Minority Rights?], in: Heintze (ed.), cited above (Note 18), pp. 20ff.

bypassing a process that was at once tiresome (codification) and fraught with risks (ratification) – has been added to the basic legal *acquis* of the community of European states (both within and outside the EU). This success story is unjustly neglected, but shows once more how indispensable the OSCE is in a system of European states whose key characteristic is an incredible lack of flexibility that makes it increasingly difficult to react rapidly (and as effectively as the OSCE) to acute challenges such as minority protection.



## Report on Guantanamo Bay<sup>1</sup>

### *Introduction*

In 2003, the Parliamentary Assembly of the OSCE (OSCE PA) emphasized the importance of reconciling the fight against terrorism with democratic values and respect for human rights. In its “Resolution on the Prisoners Detained by the United States at the Guantanamo Base”, which it adopted in July 2003 during its Rotterdam Annual Session, the OSCE PA was concerned about the “unlawful combatant” status accorded to those prisoners. One year later, in its “Resolution on Torture”, adopted during its Edinburgh Annual Session, the OSCE PA again expressed its concern for the fate of certain Guantanamo detainees, who have been held for years without trial or legal representation.

Given the growing interest of OSCE PA members in this controversial situation and their desire for a parliamentary delegation to be permitted to visit the site, the President of the Parliament, a Democratic member of the US Congress, made the decision during the Vienna Winter Meeting in February 2006 to appoint a Special Representative on Guantanamo. As I was then already an elected Rapporteur of the General Commission on Human Rights, Democracy, and Humanitarian Questions, he entrusted this mandate to me.

On 4 July 2005, during the Washington Annual Session, I had presented an initial report, in which I recommended the establishment of a timetable for the closure of the detention camp, underscoring, in addition, the need to intensify the exchange of information and co-operation between the various intelligence services.

At the end of 2005, the US authorities acceded to my repeated requests to be allowed to visit the site, without however allowing me to talk to the detainees. The visit took place on 3 March 2006, in the company of experts and a representative of the International Secretariat of the OSCE PA. We wanted to draft a report that was as objective, precise, and constructive as possible. I presented this report to the OSCE PA on 3 July 2006 during its Brussels Annual Session.

My hope is that, in the coming months, one international organization or another will take the initiative of constituting an international committee of legal experts charged with reflecting on the possibility of developing international law to deal with the general question of the “new categories of combatants” and the recent evolution of international terrorism.

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<sup>1</sup> The following text is adapted from the Report on Guantanamo Bay by Mrs Anne-Marie Lizin, Special Representative of the President of the OSCE Parliamentary Assembly, Mr Alcee Hastings, 30 June 2006.

The report, which updates the one addressed to the President of the OSCE PA at the time of the Washington Session in July 2005, takes stock of the situation at the Guantanamo Bay Detention Facility and makes new recommendations. It was compiled by critically examining many sources: official reports from the US administration; information from the media; reports from intergovernmental organizations; reports from non-governmental organizations; information provided by lawyers acting for certain detainees, and so on. It also drew upon official talks at both the US State and Defense Departments, as well as on the data collected during my visit to the Guantanamo Bay Detention Facility in March 2006.

Since July 2005, the Guantanamo Bay Detention Facility has constantly been at the centre of the concerns not only of human rights organizations, but also of institutions such as the European Parliament<sup>2</sup> and the European Commission. On 27 February 2006, a report on the situation of the people held in Guantanamo Bay, prepared by five independent experts, was submitted to the Human Rights Commission<sup>3</sup> of the United Nations.

The US administration has been called upon to answer criticisms emanating from these various organizations. Following a court decision on 23 January 2006, the US Department of Defense was compelled in March 2006 to publish interrogation reports, plus a list of 558 names. A new list of 759 names was published on 17 May 2006.

The report does not revisit the objections of a legal nature that have been widely discussed in many documents. In Section I, it presents observations and comments relating to the conditions of detention, interrogation techniques, the quality of the information obtained, and the medical care provided to detainees, stemming from the visit to Guantanamo Bay by an OSCE PA delegation in March 2006. The allegations of human rights violations and torture advanced by the aforementioned organizations and by lawyers acting for certain detainees, as well as the US administration's arguments, have been taken into account. Section II presents the conclusions and the recommendations.

#### *Assessment of the Visit to the Guantanamo Bay Detention Facility: Observations and Comments*

The one-day visit to the facility, requested for nearly a year, took place in March 2006. It was preceded by talks at the US State Department and De-

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2 On 16 February 2006, the European Parliament called on the US administration to close the Guantanamo Bay Detention Facility and insisted that every prisoner should be treated in accordance with international humanitarian law and tried without delay in a fair and public hearing by a competent, independent, impartial tribunal. On 13 June 2006, a new resolution was voted upon calling on the US to close Guantanamo Bay.

3 The UN Commission on Human Rights was replaced by the Human Rights Council on 15 March 2006.

partment of Defense. At Guantanamo Bay, the delegation was able to have talks with officers of every rank, guards, doctors and nursing staff, kitchen staff, an Islamic advisor, and with the interrogators themselves. The conditions of the visit precluded the holding of private talks with detainees. The delegation also had access to a number of documents concerning the management and infrastructure of the facility as well as certain detainee files.

### *Detention Conditions*

Following the detection of abuses in detention centres in Afghanistan and Iraq, strict measures have been taken to avoid such acts in Guantanamo Bay. General Jay Hood, the detention facility's commanding officer at the time of the visit, declared that he was taking particular care to rule such things out. To this end, he has set up a Joint Task Force Standardization Team, which is acting as an internal auditor at all levels (interrogation, security, medicine, kitchen, etc).

Visits to various internment camps were instructive in more ways than one. According to the experts accompanying the OSCE PA delegation, who had visited Guantanamo Bay on several occasions, the current conditions have nothing in common with those of Camp X-Ray, which had been set up in a largely makeshift manner in 2002. Today they are closer to those of ordinary American prisons.

According to the information gathered at the time of the visit, the facility was holding 490 detainees. Following the closure of Camp X-Ray, there remain the five distinct detention blocks in Camp Delta, named Camps 1, 2, 3, 4, and 5, as well as Camp Echo. An additional building called Camp 6 is under construction in Camp Delta. Camp 1 contained 42 per cent of the detainees; Camps 2 and 3 contained one and two per cent, respectively. Thirty-nine per cent were in Camp 4, while the 16 per cent considered to be the most dangerous were housed in Camp 5.

Made of steel, the detention blocks can accommodate 48 detainees in individual cells, separated by thick, small-mesh wire fencing, and with better protection from the sun than in the initially open camp in 2002. The cells have a minimum of conveniences (running water and toilets). An arrow painted on the ground indicates the direction of Mecca. Each detainee receives a copy of the Koran in his own language, a prayer mat, prayer beads, bedclothes, soap, and clothing including sandals. The call to prayer is broadcast five times per day in the camp by means of loudspeakers and is followed by periods of prayer observed by all of the detainees.

During prayer time, yellow cones are placed in the camp's corridors to remind the guards to carry out their tasks in silence and not to disturb the detainees' prayer.

The delegation had a long meeting with the detention facility's Islamic advisor. He maintained that he had many contacts with the detainees. He also

organizes training sessions for members of the military personnel with the aim of introducing them to Muslim culture. In fact, he even seems to serve as an interface between the detainees and the facility's Commanding Officer.

The detainees receive and send mail on a regular basis. In 2005, the number of letters sent and received (by post or via the International Committee of the Red Cross, ICRC) amounted to 18,580. All letters are subject to military censorship, which has led to complaints from detainees and their lawyers. The latter have denounced the fact that certain letters either did not reach their recipients, or did so only after considerable delay.

The OSCE PA delegation visited Delta Camp 4, whose wire fencing is covered by a green synthetic fabric. It contains the rooms of ten detainees that are allowed to circulate freely. These detainees, who dress in white, are allowed to talk to each other and seemed to be busy with their own occupations. They had been selected by the interrogators or guards because they had shown themselves to be co-operative. Areas were set aside in the centre of the camp where sports (football, volleyball) could be played. The star-shaped structure of Camp 5 gave the impression of being permanent.

The detainees receive *halal* meals three times per day. The menus include vegetarian options and cater to any possible medical needs. On certain days, supplements are provided for the detainees of Camp 4.

In general, security is exceptionally tight. The standards applied are almost identical to those in force in the ordinary American prison system. The guards (male or female, with very many of the latter) apply the security instructions to the letter.

Contrary to what occurs in the American prison system, however, where the guards are encouraged to get to know the prisoners better, in Guantanamo Bay, verbal contact with detainees is prohibited. Exchanges are purely utilitarian, often based on gestures. According to statements by the people in charge of the camp, both male and female guards are insulted on a daily basis. Detainees in orange suits are transported in chains from their cells to the interrogation centres by soldiers using small carts.

#### *Medical Facilities and Healthcare*

The hospital for detainees is fitted, like all military hospitals, with modern, good-quality medical equipment. It has some twenty beds (rising to thirty if necessary). According to the army medical officers who were questioned, the care dispensed to the detainees, including dental care, is the same as that enjoyed by the soldiers on the base.

Allegations have been made by detainees and their lawyers claiming slowness in the provision of medical and dental care and contending that some detainees have been deprived of such care for punitive and/or coercive reasons. The delegation was unable to check these allegations.

At the request of the OSCE PA delegation, additional information was provided concerning detainee medical care and illnesses. This showed that nearly 500 detainees had had 2,500 medical contacts per month, and that access to the facility's medical services was possible 24 hours a day seven days a week.

With respect to illnesses, since 2002, there have been 275 surgical operations, primarily orthopaedic, linked to combat wounds. Common surgical operations, such as appendectomies, repairs of groin and umbilical hernias, tonsillectomies, and haemorrhoid treatments have also been performed. There is monitoring of chronic pathologies, such as hypertension, gastro-intestinal disorders, diabetes, coronary artery diseases, and cardiac de-compensation. Regular eye and dental check-ups are carried out. All necessary diagnostic examinations – including those requiring CT scanners – have been carried out.

A more specialist service regularly monitors eight per cent of the incarcerated population for mental disorders. The prevalence of mood disorders among the population of the facility is 18 per cent at any given moment, compared to 20 per cent of the United States prison population. Twelve per cent of the detainees of Guantanamo Bay have developed anxiety disorders, and nearly 17 per cent suffer from psychotic disorders, percentages which are distinctly higher than the American prison population (of which roughly six per cent suffer from psychotic disorders). Personality disorders have been noted among 35 per cent of the detainees, also a very high figure.

This medical report indirectly shows the significant impact of prolonged detention on the detainees' mental health.

The main medications provided to detainees in the hospital are:

- Antidepressants, anxiolytics (anti-anxiety drugs), and sedatives such as amitriptyline;
- Benzodiazepines such as clonazepam;
- Proton pump inhibitors (omeprazole);
- Anti-inflammatory non-steroids, such as ibuprofen, meloxicam (Mobic), naproxen (Naprosyn);
- Antihistamines (loratadine);
- Second level pain killers such as cyclohexane (tramadol);
- Anti-psychotics (drugs used not mentioned).

The hospital's pharmacy is entirely comparable, in terms of quality and quantity of supplies, to that of a normal, small-scale hospital.

According to information provided by lawyers from the New York-based Center for Constitutional Rights (CCR), the organization from which most of the litigation over detention without trial originates, rolling hunger strikes have been observed since July 2005 by dozens of detainees (210 according to the lawyers, 200 according to the Pentagon) as a sign of protest

against their unlimited detention and the non-observance of the Geneva Conventions.

In conformity with the practice enforced in American prisons, the detainees are actually fed by drip or by mouth if their condition requires it. Certain sources indicate that the hunger strikers are attached to their beds, others that the guards leave them at least one free hand. The army prefers to talk of detainees being “fed involuntarily” rather than “fed by force”.

According to information gathered *in situ*, a small number of detainees (three were hospitalized in March 2006) have been force-fed, i.e. by use of digestive probes inserted through the nose. This kind of probe, a specimen of which the delegation was able to procure, is identical to the one used in hospitals all over the world. According to US authorities, most of the strikers seem to have given up their hunger strikes of their own free will. Certain members of the medical staff confided to the delegation that the detainees thanked them for being fed, thus allowing them to escape a hunger strike that was imposed on them by their leaders.

On 6 October 2005, a Pentagon spokesman claimed that the lawyers’ concerns “were exaggerated”, and that the detainees were striking on a rotational basis. It was confirmed to us, in March 2006, that no death as a consequence of this hunger strike had been recorded.

It should be mentioned that a team from the ICRC, which has no permanent presence at Guantanamo Bay, visits the camp every six weeks and that between those stays, short visits take place. The members of the ICRC are the only people apart from the lawyers who have direct contact with the detainees.

Faced with this hunger strike, the ICRC had communicated its position to the American authorities in October 2005. The ICRC was opposed to any feeding by force, on the basis of the declarations of the World Medical Association (WMA) of Tokyo and Malta (1975 and 1991), which specify that doctors should not lend themselves to force-feeding practices but should inform hunger strikers of the sometimes irreversible consequences of their actions.

This practice was also denounced by the British weekly medical magazine *The Lancet* in a petition that was signed by 263 doctors practising in Great Britain, Ireland, the United States, Australia, Germany, and Italy. This initiative followed the submission of testimony given by former detainees of Guantanamo Bay, in which they contended that they had been force-fed at the time of a hunger strike.

Beyond the hunger strike, it should be noted that this type of detention has confronted the medical world with serious ethical problems. Until June 2004, according to human rights organizations such as the *Physicians for Human Rights* group, the doctors responsible for advising the interrogators in Guantanamo Bay had access to the detainees’ medical files. This meant they were aware of any psychological problems and could exploit them.

Yet another aspect has been criticized: the use of teams of behavioural science advisers to design the interrogation techniques. A report by the medical doctor in charge of health policy in US jails recommended, at the beginning of July 2004, that the army should discontinue the practice of using doctors and psychiatrists for this purpose. Complaints of violations of medical ethics were lodged at the beginning of the summer of 2004 by several of the detainees' lawyers against the medical staff of Guantanamo Bay for tolerating a system in which carers withdrew medication from detainees if the latter were not sufficiently co-operative.

According to various sources, there may have been as many as 40 attempted suicides in the camps since 2002. Certain detainees were suffering from behavioural disorders even before they were transferred to Guantanamo Bay. Others, under the effects of isolation, prolonged detention, and frequent interrogation may have been driven to attempt suicide. Certain sources report that a dozen suicide attempts may have been ascribed to a single detainee, which somewhat obscures the use of these statistics.

At the time of the visit, none of these attempts had resulted in death. According to the lawyers of certain detainees, suicide attempts have been reclassified as "manipulative self-injury behaviour". On 18 May 2006, it is thought that four detainees tried to commit suicide, while several others attacked the warders who sought to intervene. On 10 June 2006, three detainees actually did commit suicide. These first deaths in Guantanamo Bay emphasize that it is more urgent than ever to declassify the information related to the reasons for those detentions. Since the end of May 2006, several dozens detainees have taken part in a new hunger strike.

### *Interrogation Techniques*

As was already indicated in the report of July 2005, most of the criticisms levelled at Guantanamo Bay Detention Facility concern both the conditions of detention and the methods of interrogation employed by the US Army. These criticisms have been repeatedly made since 2002 and not only by human rights organizations. The previous report had already mentioned that the FBI, in its report of 10 May 2005, had expressed reservations about the interrogation techniques authorized by the Secretary of Defense on 2 December 2002 and redefined on 16 April 2003.

The US authorities have always denied that the interrogation techniques used to obtain information, including those described as "aggressive", amounted to torture. They have however recognized that a limited number of cases of abuse or ill-treatment have been noted and sanctioned. According to official sources, more than 100 American soldiers have been the subject of court martial proceedings. The sentences they have received have ranged in severity from demotion to a simple reprimand. According to American

sources, no serious sanction has been handed down to soldiers on duty in Guantanamo Bay.

In the aftermath of the tragic events of 11 September 2001, discussions took place in the United States in certain official circles and in the press on the possible use of techniques that could be considered to amount to torture. The very fact that these discussions took place, in the emotional climate of the time, insinuated the idea that torture was no longer completely taboo into the public consciousness. Incontestably, these discussions have provoked negative reactions against the United States.

The US authorities stress that their position with regard to torture is clear. It is governed not only by American criminal law, but also by the obligations under the terms of treaties prohibiting torture.<sup>4</sup> However, the application of these obligations and even the definition of torture and other cruel, inhuman, or degrading treatment or punishment in a situation of conflict were, in 2002 and 2003, the subject of the greatest confusion on the ground and accompanied by public statements on the part of certain political leaders, which indicated a strong desire for vengeance.

This question was at the heart of the debate that took place in the American Senate on 5 October 2005. On 15 December 2005, President George W. Bush accepted the McCain amendment to the 2006 Department of Defense Appropriations Bill. The amendment prohibits cruel, inhuman, or degrading treatment or punishment in the case of people held by the Department of Defense and placed under guard or control of the government of the United States anywhere in the world, thus codifying the prohibition of such treatment and clarifying certain rules that had tended to cause confusion.

Nevertheless, allegations of ill-treatment and torture of the detainees of American prisons in Afghanistan, Iraq, and at Guantanamo Bay are recurrent and are helping to propagate a negative view of the United States in the world. Certain particularly cruel images taken at Abu Ghraib prison, which is now closed, continue to be shown all over the world, nurturing anti-American propaganda.

Chapter III on "Torture And Other Cruel, Inhuman Or Degrading Treatment Or Punishment" of the report by United Nations experts that was submitted on 27 February 2006 to the Human Rights Commission explicitly suggests that the treatment of the detainees of Guantanamo Bay approaches the definition of torture as it appears in the Geneva Conventions. The experts' report drew upon discussions with former detainees (particularly those in the United Kingdom), answers given by lawyers representing other detainees, declassified information, and answers provided by the American authorities.

On 10 March 2006, the government of the United States retorted point by point in a memorandum, which disputed the allegations of the UN experts,

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4 In particular the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 (which came into force on 26 June 1987).

who had refused to go to the site because of the ban on private discussions with the detainees.

It should be noted that the allegations of ill-treatment and torture were generally based on the testimony of a limited number of former detainees, who had since been released or transferred, and whose names appear repeatedly in the relevant reports, and on the testimony of their lawyers. According to the experts, many of the remarks made by the detainees were not necessarily reliable. Once released, certain detainees tend, for political or venal – and obvious – reasons, to exaggerate possible acts of ill-treatment.

Furthermore, not all detainees claim ill-treatment. Certain Afghan detainees have extolled the United States for the humane treatment that they received, for the care that was lavished on them, for the quality of the food, and for the relative comfort of the cells, which are equipped with electricity and running water. Recently, some released Yemenis have admitted to being treated humanely. Others, on the other hand, have denounced barbarian acts of torture

Generally, it should be noted that the testimony of many people agrees and that the most aggressive interrogation techniques have caused debate even within the US armed forces, as shown by the memorandum dated 18 June 2004 from Alberto J. Mora, General Counsel of the United States Navy.<sup>5</sup>

As a result of this debate, Guantanamo Bay is now in the spotlight, and is visited frequently by American members of Congress, journalists, and lawyers.

It should also be remembered that the US authorities have always contended that many detainees have been specially trained to learn how to resist interrogation and to systematically accuse their guards of ill-treatment and torture.

According to the statements of the interrogators we met, the most aggressive authorized interrogation techniques (sensory and sleep deprivation, confiscation of elements of comfort, wearing of a hood, stress position, total isolation for a prolonged period, etc.) have been abandoned in favour of non-violent and non-coercive psychological techniques.

The delegation was able to witness an interrogation via a video link but was unable to draw any conclusions from it: The detainee, who was dressed in orange, was rather passive, remained seated, and was able to eat and drink during the interrogation.

The people in charge of Guantanamo Bay contend that 125 detainees still have usable information and that 35 of them are regularly questioned. These interrogations are currently carried out by 32 people of both sexes, all of whom work under contract to the Pentagon. Each interrogator is accompanied by an interpreter and an analyst. The interrogators are Pentagon-trained. Some of them have a solid knowledge of the detainees' culture and

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5 Revealed by the *New Yorker* on 27 February 2006.

thought processes, and understand or speak Arabic or other languages spoken by the detainees. Through contact with the detainees, certain interrogators admit to having been able to expand their own knowledge.

#### *Relevance of the Information Obtained and the Evidence Adduced in Support*

With respect to the question of the quality of the information obtained after three or four years of detention, the answers from American authorities were positive. According to interrogator statements, information was still being received from Afghanistan, Iraq, and the intelligence services, and, in particular, may have enabled a terrorist network in Italy to be dismantled. The information sometimes mentions a detainee's name or alias. It may enable a detainee to be identified and the statements he has made during the many interrogations to which he has been subjected since his arrival at Guantanamo Bay to be checked.

It should however be noted that, according to our sources, certain detainees (those dressed in white) are now interrogated only rarely (once a year in certain cases). This could mean that they are waiting to be released or transferred or that they have retreated into total silence.

The American authorities emphasise the fact that the information gathered since 2002 by means of interrogation has led to a better understanding of how terrorist networks operate, the type of armaments they use, the recruitment process, and the ramifications of all this. However, according to certain experts, Guantanamo Bay has not enabled the establishment of an exhaustive database on Al-Qaeda.

The same applies to the evidence that was shown to the delegation. Some of this evidence was overwhelming (a notebook with recipes for manufacturing explosive devices, detailed description of targets, false identity papers, counterfeit money, etc.), while some was weak (in particular the many watches of the Casio F-91W brand, known to be used by Al-Qaeda) and would not be enough to prove guilt before a civilian court. And then there are the problems associated with homonyms. Certain detainees claim, indeed, to have been captured by mistake, their names being identical to those of alleged Al-Qaeda members. Others proclaim their innocence even though they were, according to the US authorities, in a zone of military operations at the time of their capture.

#### *Degree of Detainee Dangerousness*

According to the people in charge of the facility, a number of detainees (nearly seventy) are particularly dangerous militants. If they were returned to freedom, they would join the *jihad* to fight the United States and its allies. Of approximately 270 transferred or released detainees, some fifteen individuals have been recaptured after re-offending and committing acts of terrorism.

According to the US authorities, this justifies the continuing detention of those who have clearly expressed their intention to resume the fight against the United States and its allies should they be released. According to certain sources, recapture was particularly common in the case of the Taliban members sent back to Afghanistan.

The delegation viewed the files of seven detainees considered to be dangerous. Among them were an Al-Qaeda member, a training specialist for the manufacture of explosives, a member of an Afghan terrorist cell who had orchestrated an attack on a journalist, and several Al-Qaeda members who had developed a prototype of a shoe-borne explosive device designed to blow up aeroplanes, as well as a limpet mine for attacking ships.

More precise information on other detainees could not be obtained. It seems clear that certain detainees have been radicalized during their lengthy incarceration. Others who found themselves feted as heroes on their release had no choice but to join the *jihad* to avoid being considered American collaborators.

Only the military authorities are qualified to determine the dangerousness of a detainee. Our interlocutors emphasized the fact that many detainees had already been released or transferred to their countries of origin, but that certain countries had refused the repatriation of their nationals. The authorities fear above all that certain released detainees would join networks to continue the fight against American forces.

It is likely that a range of alternative solutions are being considered, but nobody within the US administration is calling for the closure of the short-term facility. The State Department has expressed its desire to reduce the number of detainees as rapidly as possible. President Bush stated on 7 May 2006 that he personally wanted to close Guantanamo Bay and bring the detainees before the courts, without however giving a timetable for closure or detailing how he envisions doing this. During the EU-US summit in Vienna on 21 June 2006, President Bush declared that he “would like to end Guantanamo” and that the United States wanted to send the detainees back to their home countries. He added that they would be tried either in local courts or in the USA.

According to official figures, nearly 460 detainees remain in Guantanamo Bay at present (compared to 490 in March 2006).

On 23 January 2006, in response to a petition filed by the American news agency Associated Press (AP), a Federal judge, pursuant to the Freedom of Information Act (FOIA), ordered the US government to reveal the identities of the detainees mentioned in the 558 hearings conducted in Guantanamo Bay. As a result of this decision, the Pentagon was required to publish 5,000 pages of interrogation reports. These documents revealed, for the first time, the names and nationalities of 317 detainees. Only the names of the officers taking part in the hearings had been effaced. It should be recalled that a total of approximately 900 detainees have been held in the facility since its

opening in 2002. Until March 2006, the Pentagon had never provided a list of either individuals currently or previously held in Guantanamo Bay or of those who had been released. The Pentagon always held the view that secrecy had to be maintained to protect the detainee's life and to prevent his family from being subject to reprisals if he co-operated with the Americans.

In 2005, a federal judge ordered that a survey be taken among the detainees. At the time, those in charge had asked each one if he wanted his identity to be revealed to the AP. The questionnaire was received by 317 detainees, 202 did not answer, 63 answered in the affirmative, 17 answered negatively, and 35 returned the form unanswered. The judge ruled that the Pentagon's justifications lacked substance and that even the 17 detainees who had opposed it could not reasonably expect to remain anonymous when they had called upon the courts to challenge their detention.

Among the detainees still incarcerated in Guantanamo Bay, none has been convicted. Only ten of them, accused of plotting against the United States or of complicity in such plots, have been subjected to examination and designated to appear before a special military court, called a Military Committee. The first Military Committees were constantly interrupted by the lawyers seeking remedy at law and none was concluded. The Supreme Court should embark on an examination of the legality of those courts without delay.

Since the Supreme Court's decision of 28 June 2004, many detainees have brought *habeas corpus* actions before the American civil courts. They regularly (three or four times a year) receive visits from their civilian lawyers. The latter are usually accompanied by an interpreter. According to statements made by certain lawyers, the facility's interpreters have translated badly, or worse, have distorted the clients' remarks.

On 20 April 2006, the Pentagon published a list of 558 names of people who were or had been detained in Guantanamo Bay. A new list of 759 names was published on 17 May 2006. This new list contains the names, nationalities, identification numbers, dates and places of birth of approximately 200 detainees whose status had not been examined because they had previously been transferred or released. It should be noted that no known Al-Qaeda leader appears on this list, no leader of a known Islamic terrorist group or of the Taliban regime that ruled Afghanistan until 2001. Among the 125 Afghans appearing on the list, some are identified only by a single name ("Hafizullah", "Nasibullah", or "Sharbat"). As there are many homonyms in Afghanistan and Pakistan, it cannot be ruled out that a number of individuals may have been arrested by mistake or that they may have given false names. Various sources contend that certain detainees have been arrested by the Pakistani secret services and then sold to coalition forces. Few detainees were captured while holding weapons. Many of them were detained only because they were living in a house associated with the Taliban or working for an organization related to the Taliban regime.

According to the US authorities, the only way of knowing the names of certain detainees, most of whom had no papers at the time of their arrest, is by interrogating them. They admit that there may be inaccuracies in the list but emphasize that the interrogations have made it possible to obtain interesting information on the structure of Al-Qaeda, its financing, recruitment and training mechanisms, and on the NGOs that lend it assistance.

It appears once again that the US intelligence agencies could have obtained better results if they had agreed to share the information more – and more quickly – with the intelligence agencies of the countries engaged in the fight against terrorism.

The first report had already mentioned the fact that many countries had informally referred investigators to locations to interrogate their nationals. Thanks to the information thus obtained, investigations could be carried out that led to substantial results. But co-operation between US and foreign secret services has frequently been insufficient and has at times proved difficult. The information provided by other nations – when it was not ignored completely – was not always used correctly by the Americans. I should here like once again to emphasize the need for co-operation between the intelligence services and police involved in combating Islamic terrorism, the more so as it involves complex, mobile groups, with international ramifications.

If the Guantanamo Bay Detention Facility no longer constitutes a mine of information, the American authorities implicitly admit that its true utility perhaps lies elsewhere. Indeed, the interrogations have led to the acquisition of invaluable insights into Islamic extremism, the roots of anti-American hatred, and the careers of terrorist recruits.

*The Joint Task Force Guantanamo* is to some extent a Defense Department laboratory for training interrogators and analysts in anti-terrorism techniques. After spending time at Guantanamo Bay, sources indicate that interrogator teams have gone on to continue their work in Afghanistan and Iraq. The interrogation camp has thus morphed into a training camp for an army that for too long has neglected intelligence and the need to patiently learn its enemy's customs and habits.

Be that as it may, the US authorities believe that the continued detention of a number of supposed terrorists in Guantanamo Bay is essential for preventing new attacks against the United States and its allies engaged in the “global war on terror”.

## Conclusions and Recommendations

### Conclusions

1. To understand the US administration's attitude in the case of Guantanamo Bay, one must remember the importance of the 9/11 attacks on the territory of the United States. Since that date, the US has considered itself to be in a state of war against international terrorism. And the executive's response is enshrined in history. One can discern in it the heritage of a 1798 act (Enemy Alien Act), which has never been repealed. This act gave the president the power to detain without an arrest warrant any "enemy alien" originating from a country at war with the United States. It was applied during the two World Wars and during the Cold War. It should be remembered that, on each occasion, the judiciary, including the Supreme Court, confirmed the executive's decisions. The Vietnam War constituted a turning point. Today, the US judiciary has become far more critical. One need only recall the Supreme Court's decision in 2004, which did not support the executive's opinion on the constitutionality of the detention of "enemy combatants" in Guantanamo Bay.
2. The expression "global war on terror" poses a problem for many experts. It is used only by the United States and a number of other OSCE participating States. In countries that deal with terrorism using ordinary criminal procedures, it is not. The use of military means to combat terrorism is criticized as excessive and likely to confer greater legitimacy on *jihadi* terrorists than they already have. At what level of violence can one talk of war? Furthermore, a war has a beginning, an end, and an identifiable enemy, whereas the "global war on terror" is open-ended and likely to extend over decades, as even the US authorities admit. That is the nub of the question. All legal argumentation of the US administration rests on this term "war".
3. On several occasions, our American interlocutors emphasized the *sui generis* nature of this war, which resembles neither a traditional conflict nor a police operation carried out with the use of armed forces. Terrorist organizations act from the territory of sovereign states and are able to generate threats that, up to now, could only have emanated from nation states. Whether they are invited or whether they impose themselves on the sovereign territory, it is impossible to dissuade these entities from acting: Either they have nothing to lose or they aim to conceal the origin of their attacks. Nor can one negotiate with them, since they are usually not looking to compromise with, but rather to annihilate their adversary.
4. While this is accepted, experts nevertheless believe that the terrorist threat must be put into perspective. Islamic terrorists certainly do constitute a danger, a serious nuisance, but they are not a real threat to our

civilization and our way of life as long as they have no weapons of mass destruction. Osama Bin Laden has become an emblematic figure in the Salafist *jihād* and the Al-Qaeda label has become a referent for the most radical Islamic elements worldwide. If the destruction of the Afghan sanctuary incontestably dealt Osama Bin Laden and his accomplices a very hard blow, they did not result in the eradication of the Al-Qaeda-related networks. The *jihadi* terrorists remained capable of conducting spectacular operations. The attacks on London, Madrid, Egypt, and Bali, for instance, have shown that no country is truly safe, especially if the perpetrators of these attacks have no direct operational ties with Al-Qaeda but are inspired by its methods and by an ideology that is widespread in certain milieus.

5. One question that repeatedly arises concerns the status of the people captured in the course of armed operations in the context of the “global war on terror”. Alleged terrorists thus captured (described as “enemy combatants”) and detained in Guantanamo Bay are not considered by the US authorities as prisoners of war and therefore do not benefit from the protections of the 1949 Geneva Conventions. This situation has been widely denounced by human rights organizations. The criticisms focus particularly on the fact that the deprivation of liberty of prisoners of war and civilian prisoners for an indefinite period in order to be able to continue to interrogate them is incompatible with Clause 17 (3) of the Third Geneva Convention, and with Clause 31 of the Fourth Geneva Convention.
6. In response to these criticisms, the US authorities have drawn attention to the fact that the Geneva Conventions, which were drafted shortly after the Second World War and have been repeatedly refined ever since, in particular by the two additional Protocols of 1977 and 2005,<sup>6</sup> clearly stipulate that the following are to be considered prisoners of war: (1) members of the armed forces of a party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces; (2) members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions: (a) that of being commanded by a person responsible for his subordinates; (b) that of having a fixed distinctive sign recognizable at a distance; (c) that of carrying arms openly; (d) that of conducting their operations in accordance with the laws and customs of war. The problem at the heart of the debate is therefore to know whether the Geneva Conventions and international humanitarian law apply to the

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6 The three additional Protocols were signed but not ratified by the United States.

new category of people who have been arrested at the time of an international armed conflict.

7. There is incontestably some legal haziness surrounding this question.<sup>7</sup> One can legitimately wonder whether the Geneva Conventions apply to an international terrorist organization such as Al-Qaeda. It is, indeed, difficult to sustain the notion that the members of this organization are identified with a state. The Taliban could, at a stretch, be regarded as regular forces of a state, in this case Afghanistan, up to October 2001. But the Taliban regime had clearly established an active partnership with Al-Qaeda, and the members of this organization come from many countries and, in addition, are not easily identifiable because of the use of various names and false documents. Al-Qaeda is, indeed, a non-state organization that has nothing to do with any national liberation movement. It is made up of cells, organized in fluid and mobile networks, without territorial bases, which are reconstituted as soon as they are dismantled. This organization cannot therefore be regarded as being a party to the Geneva Conventions. It does not recognize those conventions, nor does it respect the standards of conduct that they espouse. It carries out its operations in obvious violation of the laws and customs of war, in particular by targeting innocent civilians.
8. The US authorities thus believe that they have the right to detain the supposed terrorists for the time necessary to shed light on their individual situations, in particular to find the proof that they are indeed associated with an international terrorist organization and represent a permanent threat against the United States and its allies.
9. One thing appears obvious. Since 9/11, international terrorism has taken on a new dimension with the emergence of international terrorist organizations of a military nature for which no precedent exists. Recruitment to these organizations knows no borders. Their goals are often diffuse. They let fly at various types of targets, individual or collective, in many countries. Their non-traditional methods are capable of causing mass destruction. International law must adapt to this new situation and it may be worth considering whether additional instruments could be necessary in the future to counter or prevent these new threats to international peace and security.
10. If it appears that the Geneva Conventions do not apply in the case of “enemy combatants”, international humanitarian law and human rights do nevertheless continue to apply, a fact which, moreover, is not disputed by the US authorities. The latter, as we have noted above, refute the charges of torture and cruel or degrading treatment.
11. The US authorities contend that they want to transfer a large number of detainees to their countries of origin as soon as possible. This poses a

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<sup>7</sup> See the opinion of the Council of Europe’s Commission of Venice of 17 December 2003 on the possible need for the Geneva Conventions to be adapted.

serious problem when these countries refuse to receive their nationals or, more seriously, when it is proven that torture is practised in their prisons. Six Chinese detainees belonging to the Muslim Uyghur minority originating from the province of Xinjiang were thus released and transferred, under the terms of protracted negotiations, to Albania rather than China, where they were likely to have faced persecution. According to our sources, negotiations are being conducted with other countries, in particular with Saudi Arabia, Bahrain, Kuwait, and Turkey, to transfer to them some of their nationals who are still detained in Guantanamo Bay. Of six detainees of Turkish nationality, five have been released but negotiations are still in progress for the transfer of the sixth, who is considered to be an “enemy combatant”. On 18 May 2006, some 15 Saudi detainees were indeed released and repatriated to Riyadh. A governmental representative in Kabul said very recently that the United States was about to extradite the 96 Afghan detainees from Guantanamo to Afghanistan, where they would be judged.

12. An internal political debate is in progress at various levels, particularly between the State Department and the Pentagon. According to comments received by the delegation, members of both are apparently wondering about the need to maintain the detention facility and are sceptical of just how effective it really is in the fight against terrorism. It should also be noted that American public opinion appears to be increasingly divided. A poll published on 11 May 2006 by the Programme on International Policy Attitudes (PIPA) of the University of Maryland, showed that 63 per cent of the respondents believed that the United States should change its treatment of the detainees in Guantanamo Bay in order to conform to the standards of the UN Human Rights Commission. In the international community, more and more voices are being raised to demand the closure of Guantanamo Bay. Angela Merkel, Chancellor of the Federal Republic of Germany, and other European political leaders have clearly expressed their opinions to this effect.
13. The Rapporteur has addressed a letter to the defence ministers of countries that have forces operating within the framework of the International Security Assistance force in Afghanistan (ISAF) to learn the fate of any prisoners that may have been captured during military operations. From the answers obtained, it appears that most countries did not make any arrests, while others handed over the arrested persons to the Afghan authorities. Some countries have a memorandum of understanding with the Afghan authorities in which they give assurances that they will treat the detainees in accordance with the provisions of international law. According to our sources, the reality of the practice on the ground leads to the prisoners being entrusted to the American forces. The variety of answers demonstrates, *de facto*, the uncomfortable nature of the legal situation. This also underscores the urgent need to co-

ordinate procedures amongst NATO countries as well as with OSCE participating States that are not members of NATO but participate in ISAF. It is essential to set up a working group to avoid differences in procedures leading to serious incidents.

### *Recommendations*

The Rapporteur:

1. Notes that the Guantanamo Bay Detention Facility is continuing to seriously tarnish the reputation of the United States in the world and enabling its enemies to devalue the fight against terrorism by substantiating the idea that it is incompatible with respect for the rule of law and for human rights.
2. Notes that the recommendations of the report of July 2005 have had a certain effect on the way in which the facility is being run.
3. Notes that, since her visit to Guantanamo Bay, the US authorities have begun to treat detainees as “protected people” in the meaning of Clause 4 of the Third Geneva Convention, even if the status of prisoner of war is officially denied them.
4. Takes note of the publication of several detainee lists by the United States Department of Defense.
5. Recommends to the US authorities that they transfer a number of detainees to their countries of origin as soon as possible by accelerating the negotiation of those transfers that are being refused by the detainee’s country of origin. This type of impasse can be particularly prejudicial to detainees whose release is imminent; she also recommends avoiding sending detainees back to countries where they might be tortured or exposed to cruel, inhuman, and degrading treatment.
6. Suggests that OSCE participating States and NATO members that still have nationals detained in Guantanamo Bay negotiate with US authorities to accelerate the transfer of their detainees and, if necessary, to do so with the assistance of concerned international organizations.
7. Recommends to the US authorities that they clarify their commitments with regard to the elementary guarantees envisaged by international humanitarian law. Treating detainees in accordance with their rights is the best way of showing that the fight against terrorism does not contradict respect for human rights.
8. Recommends that the information obtained at Guantanamo Bay be the subject of evaluation and exchange within a new international task force, composed of the intelligence and police services of the participating States, thus ensuring better co-operation in the fight against terrorism.

9. Recommends that the US authorities do their utmost to facilitate the declassification of relevant information in the fight against terrorism and commit themselves to sharing useful information with the OSCE participating States; this has become all the more imperative since three detainees committed suicide on 10 June 2006.
10. Recommends the creation of an international commission of legal experts tasked to continue to reflect on possible developments in international law on the general question of “new categories of combatants” and recent developments in international terrorism. This international commission should ask itself whether additional instruments will in future be necessary to counter or prevent these new threats to international peace and security, examining in particular the international status of prisoners taken in these new conflicts in the light of the current lack of legal and practical clarity.
11. Suggests that other international missions, including further OSCE delegations, be welcomed at Guantanamo Bay to continue the work started by this report.
12. Calls on all the countries concerned to organize transfer flights in full compliance with the law and suggests to the OSCE participating States that a dialogue be started with the United States and the European Union to assist countries supporting the war on terrorism that have detention facilities in which security still needs to be improved.
13. Takes note that the Supreme Court of the United States on 29 June repudiated the US administration’s plan to put Guantanamo Bay detainees on trial before military commissions, ruling broadly that the commissions were unauthorized by federal statute and violated international law.
14. In consequence of the foregoing, she recommends to the US authorities that they announce as soon as possible the disbandment of the Guantanamo Bay Detention Facility by publicizing in July 2006 an accurate and detailed timetable for the transfer of the detainees and for the organization of the practical modalities of the closure. In the view of the Rapporteur, it is realistic to have this timetable run from July 2006 until December 2007, at the latest.



## Islam, Islamism, and Terrorism in the Northern Caucasus and Central Asia: A Critical Assessment

The beginning of the 21st century has witnessed a significant increase in acts of Islamist terrorism around the world. Post-Soviet Eurasia, i.e. the successor states and regions of the former USSR, has not been spared this phenomenon, although 70 years of intensive secularization there had been thought to have made the region immune to (militant) Islamism. Terrorist or diversionary-terrorist attacks in the Northern Caucasus, in central Russia, and in Central Asia have been and are being carried out by groups whose motives and ideological backgrounds, subject to the peculiarities of local developments, are quite diverse. At the same time, the unifying element of the newly established terrorist groups is the fact that they legitimize their various political demands using the same ideological trappings – the religion of Islam.

It must be noted, though, that the threat of Islamist extremism has also become a rhetorical instrument for the implementation of so-called anti-terrorist policies that are intended to stabilize and cement the positions of particular power cliques in the various political systems. This study is an attempt to distinguish among the most hotly debated Islamist groups in both regions and analyse their destabilization potential, as well as the threat they pose to contemporary policies and regimes. The conclusion suggests possible alternative solutions to these problems and outlines certain tendencies to be expected in the future.

### *The Northern Caucasus*

The expansion of Islam to the Caucasus dates back to the seventh and eighth centuries C.E. During this period, Arab troops conquered – in addition to a vast territory south of the ridges of the Great Caucasus – the ancient city of Derbent in Dagestan, considered the “Gate to the Caucasus” and a key to the Caspian Sea. Despite early successes, the penetration of Islam into the interior of the Northern Caucasus proceeded quite slowly. This was due to the difficult terrain, which prevented close contact between various parts of the region, as well as the fact that there had never been powerful centralized states, whose rulers were in a position to embrace Islam (or Christianity) as a state religion and impose it on their subjects. The consequence of that has been that North Caucasian Islam – in contrast to Islam in Central Asia – has never been formally institutionalized, except for a number of religious brotherhoods and societies or various “Muslim committees” created by St. Petersburg and,

later, by Moscow, which have never been very popular with the majority of believers.<sup>1</sup>

A number of ethnic groups in the region had also previously been influenced by (Orthodox) Christianity, which was introduced in the fifth and sixth centuries by Georgian and Armenian missionaries. Thus, the expansion of Islam extended over twelve centuries. It was more successful in the lowlands and foothills of the Northern Caucasus, which were either conquered or under the influence of the Ottoman Empire or its vassal state, the Crimean Khanate, or, later on, the Kabardian and Dagestani (Kumyk) princes. The definitive Islamization of the North Caucasian peoples was not completed until the 19th century.<sup>2</sup> Among the important factors contributing to this development were the preaching of “Sheikh-warrior” Ushurma Mansur, two Dagestani Imams (Ghazi Mollah a.k.a. Ghazi Mohammed and Gamzat-bek) and, most notably, of the legendary Imam Shamil, the third Imam of Dagestan (and Chechnya), who managed to create a functioning military-theocratic state that lasted for over two decades (1834-1859) and successfully withstood the attacks of Russian armies. During the so-called Caucasian Wars in the 18th and 19th centuries, Islam became the unifying factor of the national liberation struggle of some North Caucasian peoples against the Tsarist expansion.<sup>3</sup> However, the relics and traditions of pagan cults, including the traditional, customary law (*adat*), continued to play an important part in the life of North Caucasian nations.

#### *Islam in the Northern Caucasus within the Russian/Soviet State*

Since the mid-19th century, when the Northern Caucasus was definitively conquered by St. Petersburg, the relationship of the colonial power towards Islam has never been warm. Russian authorities immediately identified Islam as a potentially influential ideology, the only one capable under local conditions of uniting the ethnically and linguistically diverse tribes of the Northern Caucasus. Hence, they regarded all Muslim clerics, and Muslim communities in general, with suspicion; interestingly, Russians have never created a centralized authority to deal specifically with matters involving North Caucasian

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1 Cf. Dmitriy Arapov, *Islam v Rossiyskoy imperii* [Islam in the Russian Empire], Moscow, 2001; cf. also Yaacov Ro'i, *Islam and the Soviet Union*, Columbia University Press 2000.

2 The vast majority of North Caucasian Muslims are Sunnis of various types, adhering to either the Shafii (a significant majority of Dagestani peoples) or the Hanafi (mostly Chechens, Ingush, peoples of the north-western Caucasus such as Nogay, North Ossetians, and Kumyks) *madhhabs* (legal schools of thought). In the Northern Caucasus, especially in its eastern part (Dagestan, Chechnya, Ingushetia), Sufi Islam is widespread, represented by four *tariqas* (paths or ways) – *naqshbandiyya*, *qadiriyya*, *jazuliyya*, and *shizaliyya*. The “non-Islamic” exceptions are the Mozdok Kabardians and the majority of North Ossetians, who profess Orthodox Christianity.

3 For more details see, for example, Nicholas Griffin, *Caucasus: Mountain Men and Holy Wars*, Boston 2003.

Muslims.<sup>4</sup> Nevertheless, one can say that, during the last years of the empire, the region witnessed a period of mutual tolerance between the authorities and local Muslims.

To some extent, the same was true of Soviet times. The initial courting of mullahs in the early years of the Soviet state for strategic considerations,<sup>5</sup> was soon replaced by severe repression of believers and churches of all kinds – as it was throughout the empire, where state-sponsored atheism sometime took a very aggressive form. The 1920s and 1930s witnessed the mass repression of Muslim (and Christian) clerics throughout the USSR; mosques and madrasas (religious schools) were closed and the (public) practice of Islam provoked sanctions from the authorities. As a result, the basis of Islam in the region was shattered, though not eradicated.

Islam survived in the Northern Caucasus in the form of a local folk Islam – a peculiar syncretic mixture of pagan cults and Muslim theology. In the north-east of the Caucasus, this was also strongly influenced by Islamic mysticism (Sufism). This symbiosis caused Islam to become an indispensable part of the (ethnic) identity of the North Caucasian nations. The ban on praying in mosques and studying Islam resulted in a notable decline in Islamic education and a significant secularization of the local people, particularly in towns and lowlands. However the religion was definitely not uprooted.<sup>6</sup> It moved underground and functioned on the basis of semi-legal or illegal groupings, brotherhoods (Sufi *virds*) and societies (village *jamaats*).

This situation remained broadly the same until the second half of 1970s, and only began to change sharply during the 1980s, when the Soviet Union began to experience a degree of social liberalization.

#### *Islamic Revivalism of the Late Soviet and Early Post-Soviet Era*

As in other areas of Soviet society, glasnost and perestroika also brought more freedom to the realm of ideas. In the late 1980s and early 1990s, the Northern Caucasus witnessed a religious (as well as a national) renaissance. The peculiar “religious deficit” of the Soviet era was soon replaced by its

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4 Similarly, the environment of the traditionalist North Caucasian Muslims, who, given the non-industrialized nature of the region, were the dominant part of society, was notoriously hostile to anything that came from Russia, including new tendencies within Islam. This could be the reason for the reserve of North Caucasians towards Jadidism – a liberal concept of Islam that attracted crowds of followers in the more developed Muslim parts of the Russian Empire.

5 The Bolsheviks needed to secure the support of North Caucasian Muslims in battles with the White Guard troops located in the region during the years of the Civil War in Russia (1918-1920), against which the highlanders waged guerrilla warfare. A popular slogan, whose author was perhaps Joseph Stalin himself (responsible for ethnic policy at that period), went: “For Sharia! For Soviet rule!”

6 A kind of ethnic traditionalism, including the influence of Islam, was strongly enhanced by Stalinist deportations (1944). The hardest hit people in Northern Caucasus were Chechens, Ingushs, Karachays, and Balkars. All these nations – including the peoples of Dagestan – are the most fervent followers of Islam in the region.

very opposite: This period witnessed a near-frenetic return of Islam from the semi-illegal realm of family circles and religious societies to the forefront of public life.

In addition to the fact that Islamic education was historically strong in Dagestan and in Chechnya, the appeal of Islam was also powerful due to the ever-present threat of Russian invasion. These processes were much more pronounced in the north-eastern Caucasus than in the largely Russified ethnic autonomies of the north-western Caucasus. In the early 1990s, in particular, the region experienced a steep increase in the number of (pseudo-) Islamic societies and organizations, which, however, often had very little to do with Islam and were established by individuals with very questionable pasts or presents; the adjective “Islamic” in the name of an organization was supposed to increase prestige and give more legitimacy to the “owners” in the eyes of their countrymen. Numerous Islamic *jamaats* (communities) and charitable organizations were established, old mosques were reconstructed, new ones built, etc. In Dagestan alone, a country of only 2.5 million inhabitants, the number of mosques increased from 27 (in 1987) to 1,429 (in 1999); in addition, some 1,700 new *jamaats*, 178 madrasas, and 15 Islamic colleges were created.<sup>7</sup>

It was in the early 1990s that radical and extremist streams of Islam started taking root in the region; initially they penetrated the area of western (upland) Dagestan. Local youths would travel to Middle-Eastern countries to acquire Islamic education and would come back after few years influenced by ideology of “pure Islam” – “Wahhabism”, or rather Salafism.<sup>8</sup>

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7 The statistics of the Directory for Religious Affairs of the Dagestan Republic from 1999, see *Dagestankaya pravda*, 10 February 2000.

8 “Wahhabism”, a movement to purify Islamic teaching, originated in the mid-18th century in Arabia as part of an influential purification movement associated with Muhammad Abd ibn al-Wahhab ibn Suleiman at-Tamimi (1703–1791) of Nejd. Inspired by texts written by a scholar named Ibn Taimiyyah (1263–1328), this religious reformer and his disciples called for a return to the purity of early Islam, *as-salaf as-salih*, or the Islam of “the (pious, honourable, virtuous) forefathers”; it adheres to the strictest Hanbali *madhhab*. Incidentally, the followers of Wahhab themselves refuse to refer to themselves as “Wahhabis”, partly because this term has had a negative connotation since the days of the Ottoman Empire, but mainly because of the prohibition against identifying oneself with the name of a man, which would be committing the sin of idolatry. They call themselves *mu-wahhidun* (“those accepting and worshipping the only God in existence”) or *salafiyyun* (“followers of the paths of pious, honourable, or virtuous predecessors”).

The extremist form of Salafism propagating armed *jihād* is also called Jihadism. *jihād*’s main targets – besides Shiites – are those considered unbelievers (*kafir*, pl. *kuffar*, *kafrun*, or *kafara*) and those who have defected from the faith (*murtadd*, pl. *murtaddun*) or those whose faith is deceitful or hypocritical (*munafiq*, pl. *munafiqun*). Since all who do not agree with the Salafi concept of “pure Islam” are regarded as *kuffar*, war is waged primarily against them.

The goal of the “Wahhabis”, and adherents of Salafism in general, has been the purging of pagan elements (*jahiliya*, which also included the *adat*) as well as newer heretical elements of late Islamic origin (*bid’a* in Arabic) that the faith had taken on as early as during Islam’s territorial expansion after the Prophet Muhammad’s death.

In order to differentiate the radical and militant branches of practitioners of Salafism from its relatively moderate adherents, the terms Jihadist Salafism, Jihadism, or extremist Salafism will be used.

The region also experienced a dramatic influx of members of Middle Eastern humanitarian and public education organizations, many of them openly distributing the propaganda of Salafism. Initially, the authorities treated the Salafi societies rather leniently; the revival of Islam was seen as a desirable return to the region's spiritual roots and very few people could actually understand the theological subtleties. The absence of integrated state policies, both in Makhachkala and Moscow, as well as the readiness of some Dagestani believers to protest, fuelled by country's thorny socio-economic situation, made "Wahhabism" a strong social force in the early 1990s. In the second part of the 1990s, it was the Chechen factor which started playing a major role.

#### *The Russian-Chechen War and Territorial-Ideological Fixation of Islamic Extremism*

The *de facto* victory of the Chechens in the First Russian-Chechen War (1994-1996) and the subsequent short period of peace (1996-1999) provided Jihadism with a major boost. In the war-ruined country, which was suffering nearly total unemployment, the powerful Chechen nationalism that had helped to mobilize the people to fight off the powerful Russian army transformed practically overnight back into the traditional Chechen world of clan distrust and hostility. The rule of the strongest, enhanced by post-war cynicism, again became the law of the country; members of the weaker clans that experienced bullying and attacks from the stronger clans naturally disliked this situation. Hence, young men from some of the weaker clans became more susceptible to the teachings of Salafism, which call for social equality, the need for spiritual purification of oneself and society in general, and the commencement of  *jihad*  against a wide range of "infidels". Membership of Salafi  *jamaats*  established by Arabic volunteer warriors or "enlightened" Chechens appeared to be a way to ensure security in an atmosphere of utter anarchy; however, militarization of the  *jamaats*  was necessary for this purpose. Many youths entered the ranks of the militants in order to protect themselves from "clan warfare". The strict clan hierarchy and corruption of local (Sufi) clergy, as well as the Salafi requirement to worship only one God and to denounce Sufi saints and clan leaders, enabled them to escape the complicated web of loyalties to kin and clan, giving them a semblance of individual freedom and a holy mission.

No less important was the fact that  *jihadi*  rhetoric was adopted by the part of Chechen military-political elite opposing the regime of Aslan Maskhadov – mostly because of his hunger for power – which was then seeking to enhance  *its*  power base. Maskhadov's regime quickly came to be seen by many as "heretical" and therefore illegitimate. Soon the more numerous followers of traditional (Sufi) Islam began to clash in Chechnya with the less numerous but better organized and armed jihadists, who were supported by

jihadi funds from abroad. The disrespect shown by the Salafists towards the shrines of Sufi Islam – such as the *zijas* (tombs) of Sufi saints – greatly offended all traditionalists. Similar processes followed in neighbouring Dagestan, where the initial indifference of the government was, in the light of numerous clashes between Sufists (traditionalists) and Salafis, replaced by a merciless witch-hunt of real and alleged “Wahhabis”. Between 1997 and 1999, a significant number of Dagestani Salafis escaped to Chechnya, where they were warmly welcomed by their co-religionists.

The originally secular regime of President Maskhadov began, under pressure, to transform itself into an Islamic regime, using religion as an ideology that could unite the divided Chechen society. But it was already too late. In 1998, the armed clashes between units loyal to Maskhadov and the jihadists began. In this situation, when the usually reserved Chechen president called upon his fellow countrymen to drive out the “Wahhabis” from their villages, everything seemed to indicate that the country was sliding towards full-scale civil war. At this decisive moment, the jihadists (Arabs, Chechens, Dagestani, etc.) and some field commanders sympathetic to them (for instance, Shamil Basaev) decided to wage an attack on the western region of Dagestan, where local Dagestani in several of the mountainous villages had proclaimed an independent Islamic state. This attack was meant to spark a great Dagestani and, consequently, an all-North Caucasian revolt aimed at liberating the region from “Russian oppression”. There was also an important intra-Chechen aspect to it: The initiation of this “small-scale victorious war” that was apparently very popular among Chechens, was part of the effort to shatter Maskhadov’s power base. However, the attack, which was launched in August 1999, failed fairly rapidly, due to the unexpected resistance of the vast majority of Dagestani, hundreds of whom fought side by side with the federal forces against the invaders, who were considered religious fanatics and occupiers rather than liberators. Instead of all-Caucasian revolt, this attack sparked a new, even more catastrophic, war that has not yet ended.<sup>9</sup>

#### *The Contemporary Phase: Radicalization and Regionalization*

The invasion of Dagestan, the start of the Second Russian-Chechen War, the attacks on Washington and New York on 11 September 2001 and, most notably, the bloody terrorist attacks in other parts of Russia, including the events in a school in Beslan, North Ossetia (September 2004), opened a new chapter in the history of Islam in the Northern Caucasus. The Muslim religion, associated in the minds of many ordinary people with terrorism, began to be considered a (potential) threat to the security of Russia and its territorial integrity. Realizing this, Russian enforcement authorities radically changed their

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9 For more detailed information on this issue, see Emil Souleimanov, Chechnya, Wahhabism, and the Invasion of Dagestan, in: *Middle East Review of International Affairs* 4/2005, at <http://meria.idc.ac.il/journal/2005/issue4/jv9no4a4.html>.

attitude towards Muslims. Since this time, anybody practising Islam “too vigorously” has automatically been considered suspicious. The local regimes in the North Caucasian republics have used the opportunity provided by current security trends and employ the word “Wahhabis” to discredit their political adversaries, whether they are adherents of “Wahhabism” or not.

One must, however, bear in mind that the terrorist attacks in Russian cities and towns were carried out by groups with a clear political (ethno-separatist) goal, entirely unrelated to Islam: withdrawal of Russian armies from Chechnya and the initiation of peace talks with the separatists, both of which have been repeatedly rejected by the Kremlin. Islamic rhetoric was generally only used by separatists to justify their actions. However, this has not prevented the fight against the hated “Wahhabis” – often merely practising Muslims – from gaining massive momentum.

There is a wide range of local specifics in this process that deserve greater attention. There has been a significant generation shift in Chechnya in the last few years: Instead of (ethnic Chechen) secular ex-Soviet officers, who remembered the years of peaceful existence with Russians within a single state and, until recently, formed the core of Chechen army, we see the emergence of a young “Kalashnikov generation” consisting mostly of uneducated men brought up in wartime and blinded by the most primitive forms of jihadist ideology. These young warriors consider the Russians to be a monolithic ethnic and – in extreme cases – religious group, the fight against which (and against “collaborators” from their own ranks) can justify any actions, however cruel. The brutal behaviour of federal troops (and pro-Moscow Chechen militia) in the republic, who did not discriminate between separatists, their relatives, and non-combatants, – permanent “*zachistkas*”, mass abductions and the subsequent “disappearance” of the victims, the torture and humiliation of those kept in filtration camps – is further strengthening the case of the young militants.<sup>10</sup>

In Ingushetia, the situation started deteriorating after its president, General Ruslan Aushev, who had effectively shielded his country from being dragged into the conflict either by Chechen separatists or Russian generals, had to resign from office. He was replaced in 2002 by Putin’s former colleague from the Federal Security Service (FSB), Murat Zyazikov, whose loyalty to the Kremlin is beyond doubt. Zyazikov agreed to the stationing of Russian forces in this small republic to the west of Chechnya. Soon, even here, the Russian and Ingush soldiers, police and secret services started employing the brutal methods used in neighbouring Chechnya.<sup>11</sup> In response, the

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10 Cf. Svante Cornell, Russia’s Gridlock in Chechnya: “Normalization” or Deterioration? In: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2004*, Baden-Baden 2005, pp. 251-259.

11 Cf. *The Situation in Chechnya and Ingushetia Deteriorates. New Evidence of Enforced Disappearances, Rape, Torture, and Extrajudicial Executions*, Joint Statement by Amnesty International, Human Rights Watch, the Medical Foundation for the Care of Victims of Torture, and Memorial, 8 April 2004, at: <http://hrw.org/english/docs/2004/04/07/russia8408.htm>.

Ingush youth became extremely radical and sympathetic to Chechen resistance. One consequence was a massive attack by guerrillas of the so-called Ingush *Jamaat* on the main Ingush towns (June 2004), in which more than 80, mostly Ingush policemen, lost their lives. Dagestan has been experiencing similar problems since the late 1990s because of the “quiet warfare” between the members of radical *jamaats* and law enforcement authorities, the intensity of which is perhaps even greater than in the neighbouring Chechnya.

Until recently, it seemed as if the troubles of the north-eastern Caucasus were not strongly influencing developments in the ethnic republics of the north-west of the region (Kabardino-Balkaria, Karachaevo-Cherkessia, Adygea), which are culturally and historically distinct, separated as they are from Ingushetia, Chechnya, and Dagestan by the predominantly orthodox North Ossetia, and have a greater percentage of Russian inhabitants. However, even here, the terrorist attacks served as a *carte blanche* for law enforcement agencies to carry out a preventive “pacification” of *jamaats*. The frequency of acts of repression against practising Muslims, generally characterized as “Wahhabis”, has increased. The police and the FSB have carried out mass arrests and employed humiliating and brutal interrogation techniques. Those closely following the teachings of Islam have lost their jobs; mosques have also been closed.<sup>12</sup>

In response to governmental oppression, the *jamaats* in this part of the region (and by far not all of them had originally been Salafi-oriented) began to grow increasingly radical. A complex set of internal socio-economic problems has also enhanced the ongoing radicalization, among them poverty, unemployment, corruption of local elites and “official” clergy, dissatisfaction with Russian rule and “russification” attempts, the latter being generally blamed for the moral decay of Caucasian society. In response to all this, certain members of the Kabardino-Balkarian *jamaat*, established in the early 1990s, founded an extremist (non-Salafi) splinter group in 2002 called *jamaat* Yarmuk, which focuses on social affairs.<sup>13</sup> Yarmuk endeavours to “protect Islam” and fight the “wicked” regime. In doing so, Yarmuk employs all sorts of instruments, including armed struggle. So far, the worst atrocity committed by this group was a massive attack on Nalchik, the capital of Kabardino-Balkaria (October 2005), which resulted in hundreds of deaths. Yarmuk is just one of many such organizations in the region.

Throughout the Northern Caucasus, much as in Chechnya, individual “avengers” may also join armed groups to strengthen their armed capacities and fulfil their personal missions. In other words, the behaviour of such groups is not always determined by ideology. Membership in an expansive

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12 Cf. report by Memorial, *Conflict Spill-Over Outside the Chechen Republic in 2004-2005 (Ingushetia and Kabardino-Balkariya)*, 2 March 2006, at: <http://www.memo.ru/hr/hotpoints/caucas1/msg/2006/03/m53212.htm>.

13 The Kabardino-Balkarian *jamaat* assisted young people in difficult life situations, such as alcoholism or drug addiction, run charities, support inter-generational dialogue and public resistance to racketeering and corrupt business practices.

*jamaat*, or close co-operation with one, can be a desirable alternative to being a lone-wolf. An individual man has very little chance of surviving a blood feud against powerful enemies, let alone achieving his goal. Truly, in a society respecting and honouring blood feuds<sup>14</sup> and in which the principle of collective responsibility is employed both by the state and by those who fight against the state or its individual representatives, a conflict can spread with the speed of a forest fire. The motto is: “You offend my brother (father, son, mother, sister, grandfather, uncle, or cousin) – regardless of whether we are talking about members of the *jamaat* or not – and I will do anything to take revenge on you, the whole of your family, and all your colleagues and friends.” It is obvious that in spite of expectations, neither the deaths of secularist or traditionalist leaders such as Aslan Maskhadov and his slain successor Abdul-Khalim Sadulaev, nor the liquidation of important jihadists such as Khattab, Abu al-Walid, Abu al-Saif, and Shamil Basaev in recent years, have led to the collapse of the armed resistance. This is a key argument suggesting that, regardless of changes in command, the resistance is unlikely to falter since it is driven by factors that are specifically local in nature, as mentioned above.

This principle, however, does not preclude a change in the world-view of individual avengers (not necessarily motivated by ideological or political reasons) towards the militant version of Islam (jihadism), which calls for regional (North Caucasian) solidarity. Its influence is becoming stronger and stronger among warriors from various parts of the Northern Caucasus. Together with the geometrically expanding conflict, these factors could, in a few years, produce a very combustible mixture which would seriously threaten the stability of the region.

The “Chechen factor” is also playing a role: Igniting and supporting armed resistance in North Caucasian republics became an integral part of the policy of Abdul-Khalim Sadulaev, as well as his newest successor Doku Umarov, who is trying in this way to broaden his power base and force Moscow into a peace deal.<sup>15</sup>

### *Central Asia*

The development of Central Asian countries after the dissolution of the Soviet Union exemplified similar processes and problems to those in Middle Eastern Muslim countries, even though this region has its own specificities stemming from the long-period of Soviet rule (lower religious fervour, the

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14 That applies practically to the whole of the north-eastern Caucasus and the mountainous regions of the north-western Caucasus.

15 For more detailed information see Emil Souleimanov, *An Endless War: The Russian-Chechen Conflict in Perspective*, Frankfurt am Main 2006.

strong influence of the Russian language, etc.).<sup>16</sup> The countries are struggling with high population growth and poverty. An additional factor in the mix is the revival of traditional social institutions, both in everyday life and in the ideologies of the states, since 1991.

The region has also opened up to the influence of the Middle East. A prominent feature of this process is the proliferation of Islam and, in particular, an Islam based on radical ideology. Although radical Islam has become popular with certain parts of the population in Central Asia, it is still considered a marginal issue, since the majority still prefers the traditional moderate version of Islam. The risk of “green terrorism” is often misused by governmental authorities (especially in Uzbekistan) to justify persecution of the opposition.

#### *The Traditional Understanding of Islam in Central Asia*

Islam is well rooted in those regions of Central Asia where the population is settled. Nomadic tribes have also often adopted Islam, but their lives are still dominated by traditional rules and laws.<sup>17</sup>

On the other hand, in the classical Central Asian states (the Bukhara Emirat, and the Khanates of Khiva and Kokand), Islam was a foundation stone of the local social system. The Emir of Bukhara, for instance, maintained the cult of Saint Bukhara (*Bukhoroi sharif*) and considered himself the leader of true believers (*amir al-mu'minin*). Nevertheless, even here, the Sunni Muslims considered the *khalifa*, the Ottoman sultan, to be their supreme lord, although they understood little of the modernization processes in the Ottoman Empire, about which they had heard very little.<sup>18</sup> Apart from official Islam, Central Asia has experienced a significant proliferation of folk Islam related to the teachings of famous Central-Asian Sufis (*naqshbandiyya*, *yasawiyya*, *kubrawiyya*). However, weaker contacts with the wider Muslim world enabled the survival of a strong conservatism, which was one of the major reasons why local states lagged behind. The ideas of revivalist movements, such as *jadidism*, that called for the modernization of Islam throughout the entire territory of Russia, based on Russian education standards, first began penetrating the region around 1900.<sup>19</sup>

Islam in Soviet Central Asia went through a phase of resistance immediately following the Bolshevik revolution (*Basmachi* movement) and suf-

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16 For further explanation, see the article by Pauline Jones Luong, The Middle Easternization of Central Asia, in: *Current History* 10/2003, pp. 333-340.

17 The Islamization of Kazakh and Kyrgyz tribes was strongly influenced by the policies of Catherine II in the 18th century. In 1789, she sanctioned the establishment of a *muftiat* under the leadership of the Kazan (Volga) Tatars.

18 Cf. Arminius Vambery, *Travels in Central Asia*, London 1865.

19 The traditionalism of a local clergy that had only basic knowledge of the Koran and of selected *hadiths* – something that would not change even after Russian colonization – was a thorn in the side of the revivalist groups. Cf., for example, Sadridin Ayin, [Memories], Moscow 1956.

ferred near total liquidation in the 1930s. Later, in the following decade, an official Islam was created that was meant to keep religious life within an acceptable framework at the level of folklore.<sup>20</sup>

On the other hand, an unofficial version of Islam started gaining ground in the 1960s and especially in the 1970s through the work of “domestic theologians” spreading Islamic lore in households or at gatherings of friends (so-called *hujr*) in *chaikhanas* (tea houses).<sup>21</sup> At the same time, radical elements on the margin of urban and rural society began to call for a violent purification of what they saw as heretical official Islamic clergy.<sup>22</sup> Moreover, the first unofficial Islamic structures and movements, often founded by students of the *hujr*, were created at this time.

Hence, despite all atheistic propaganda, Islam had not disappeared from ordinary life. Specifically, in certain parts of Uzbek and Tajik society, prayer remained at the core of everyday life and usually inaugurated significant events such as weddings, the birth of a child, funerals, etc. Traditional pilgrim sites never ceased to attract people, who often went there on officially sanctioned “sightseeing” tours with their work collectives.<sup>23</sup>

The occupation of Afghanistan had a profound influence on the situation of Islam in Central Asia. Recruits from Islamized nations of Central Asia were used extensively during the operations in Afghanistan, playing the role of “fellow Muslim brothers”. The veterans came home with good contacts with their Afghan fellows and many learned a lot more about Islam, albeit only about the very traditional version practised in Afghanistan.

Further outside influences (especially Wahhabist literature) started penetrating Central-Asian Islamic practices after the introduction of Gorbachev’s perestroika. Simultaneously, a row broke out between the majority traditional Hanafis and a marginal group of radical Muslims, followers of imported ideas of Wahhabist provenance. Building and reconstruction of mosques led to an influx of financial resources from traditional Muslim countries, such as Saudi Arabia and Pakistan.

At the end of the 1980s, the liberalization of the Soviet system paved the way for the institutionalization of existing Islamic structures, the peak of which was the creation of the USSR Islamic Revival Party in 1990, which, however, soon broke into national sub-groups (Uzbek and Tajik). The rows between various nationalities, as well as arguments over religious dogma, left the Islamic movement weakened to the extent that it was not able to seize the

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20 For background information on Soviet Islam see, e.g., Shoshana Keller, *To Moscow, Not Mecca. The Soviet Campaign Against Islam in Central Asia, 1917-1941*, London 2001.

21 Cf. Bakhtiyar Babadzhanov/Ashirbek K. Muminov/Martha Brill Olcott, *Muhammadjon Hindustoni (1892-1989) i religioznaya sreda ego epokhi* [Ammadzhan Hindustoni and the Religious Environment of his Time], in: *Vostok-Oriens*. 5/2004, pp. 43-59.

22 The Anthropologists Bushkov and Mikulski call these groups fundamentalists; see Valentin I. Bushkov/Dmitri V. Mikulski, *Istorija grazhdanskoy vojny v Tadjikistane* [History of the Civil War in Tajikistan], Moscow 1999, p. 110.

23 For analysis of Islam in Soviet Central Asia, see, e.g., Muriel Atkin, *Islam in Tajikistan*, Philadelphia, 1989.

opportunities opened to new parties and political groups. Moreover, in 1991 the Islamic Revival Party, or more precisely its national fractions, was forbidden in Tajikistan and Uzbekistan.

Apart from that party, other political organizations were created in various Central Asian regions. Among the more important ones was the *Adolat* (Justice) party established in the Fergana Valley. Some of its members later founded the Islamic Movement of Uzbekistan (IMU).<sup>24</sup> Smaller parties include *Hizbullah* of Uzbekistan and the Islamic and national movement *Alash* in Kazakhstan.

However, there was only limited public support for the founding of a popular Islamic movement in Central Asia. Although some Muslims, mainly the younger ones, were inclined towards the radical forms of Islam, these tendencies had no strong historical basis. The reason why the Soviet era contributed to a proliferation of radical Islam in Central Asia can be seen predominantly in the ideological vacuum of Soviet era Islam, which the aggressively imported ideologies of certain groups started to fill in the late 1980s and early 1990s, in part through the provision of significant material support. The frustration resulting from the political, economic, and social chaos in the post-Soviet space further contributed to the growing attractiveness of radical forms of Islam among the less critical, mostly young, segments of the population.

#### *Transformation of Political Islam after the Break-up of the Soviet Union*

The majority of Islamic groups that were involved in political parties and movements in the late 1980s in Central Asia did not survive the repression and the struggle with the local officially secular regimes. These groups were mostly forced into illegality; the Islamic Revival Party in Tajikistan, however, was allowed by the authorities to linger on the margins of the political spectrum.

In Uzbekistan, the members of the Islamic Revival Party of Uzbekistan, the *Adolat* Movement and some other Islamic organizations were persecuted, discredited or, as in the case of “disloyal clergy”, even suffered outright physical liquidation. In reaction to these practices, the followers of radical schools of thought started gaining ground in the Islamic movement. Nevertheless, ideology was not always the most powerful tool for attracting follow-

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24 The *Adolat* movement gained great respect in the Fergana Valley in 1991-1992 by securing public order, reducing speculation and crime, fighting corruption and alcoholism, and so on. Petty thefts were punished harshly in accordance with the Islamic law of *Shari'a* by beating with a stick. Women were forced to wear scarves and people were severely punished even for skipping their prayers. A case has been brought up, when a Russian girl accused her brother of alcoholism before the activists. Members of *Adolat* beat him up so he would “forget the bottle”. Cf. Sanobar Shermatova, *Islamskiy faktor v rukakh politicheskikh elit* [The Islamic Factor in the Hands of the Political Elite], in: Aleksei V. Malashenko/Martha Brill Olcott (eds.), *Islam na postsovetском prostranstve* [Islam in post-Soviet Space], Moscow 2001, at: <http://www.carnegie.ru>, 29 October 2002.

ers; financial resources, access to education, as well as anti-regime and populist rhetoric were magnetic for many young people. On the other hand, “recruitment” was not always voluntary, as was evident from the abductions carried out in the Fergana Valley.<sup>25</sup> Such practices were typical of the IMU, in particular.<sup>26</sup>

In Tajikistan, at the beginning of a conflict among the Tajik regions, the Islamic Revival Party of Tajikistan (IRPT) seized the governmental office in Dushanbe for half a year (May–November 1992). In the subsequent civil war (1992–1997), the party managed to gain the support of the Tajik regions that had traditionally been deprived of influence in the state. Later, the peace treaty gave it considerable political power. On the other hand, the party’s role in the peace deal prompted the secession of the most radical elements. Coupled with the inclusion of former IRPT fighters in the official forces, the secession virtually deprived the party of all real instruments of power, which resulted in a decline in popularity until it eventually diminished into political insignificance. For the official Tajik regime, the party served well as a tool to demonstrate the democratization of the country and as a scapegoat for occasional attacks on Islamic extremism.<sup>27</sup>

In the other republics of Central Asia, popular sentiment towards Islam is more lukewarm and the activities of Islamic organizations have not found significant support. The Turkmen regime did not permit the establishment of any political movement, including Islamic movements. Islamic parties would also have posed a threat to the personal cult of the president, Saparmurat Niyazov, known as Turkmenbashi. Although under President Askar Akaev Kyrgyzstan enjoyed the most liberal environment, relatively speaking, for the creation of political parties of all stripes, the Islamic movement did not achieve any significant success there, which was also true in the case of Kazakhstan.

Hence, at the end of the 1990s, it was the IMU, led by drug baron and military leader, Juma Namangani, and its ideologist Tohir Yoldash that was declared to be the most significant security threat.<sup>28</sup> The movement was the only one in Central Asia that managed to demonstrate its strength, supplemented by aid from its foreign donors (including the Taliban<sup>29</sup>), in the two

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25 Cf. *Slovo Kyrgyzstana*, 12 October 1999.

26 Cf. Vitaliy Ponomarev, *Islam v sisteme gosudarstvennoy politiki Uzbekistana i Turkmenistana* [Islam in the System of State Policy of Uzbekistan and Turkmenistan], in: M.V. Jordan/R.G. Kuzeev/R.G. Chervonnaya, *Islam v Evrazii* [Islam in Eurasia], Moscow 2001, pp. 339–355.

27 Representatives of the Tajik regime still consider the IRPT today to be an ally of *al-Qaida* and IMU. The IRPT is also suspected of attempts to create an Islamic state. Cf. Vitaliy Naumkin, *Radical Islam in Central Asia, Between Pen and Rifle*, London 2005, pp. 246–248.

28 According to some sources, this group controlled up to 70 per cent of all drug trade in east Tajikistan and in the Fergana Valley. Cf. M. Gerasimov, *Religiozniy narkotrafic* [Religious Drug Traffic], in: *Nezavisimaya Gazeta*, 3 November 1999, p. 5.

29 Cf. Wahid Mozhdeh, *Afghanistan wa panj sale-e solte-ye Taleban* [Afghanistan and Five Years of Taliban Rule], in: *Neshrani*, Teheran, No. 1382 (2002/2003), pp. 74–81.

so-called Batken Wars in 1999 and 2000. However, arrangements for a third campaign of this kind were postponed due to the higher priority placed on preparations for the September 11 attacks in the USA. It is likely that Namangani died in the subsequent military intervention in Afghanistan, thus strongly reducing the capabilities of the movement to pose a public threat. Simultaneously, the name of the movement disappeared from the newspapers' front pages and official reports.

Besides the IMU, the authorities' attention has also focused since the late 1990s on a global movement, *Hizb ut-Tahrir*, which has operated in Central Asia since the early 1990s.<sup>30</sup> However, the movement's name had not appeared in the news before the trial of the alleged organizers of the assassination attempt on Uzbek President Islam Karimov in February 1999. After the withdrawal of the IMU from the political scene, *Hizb ut-Tahrir* became the movement to be blamed for all terrorist attacks from 2001 on. Although, the organization displays features typical of a fundamentalist movement, its leaflets and literature do not indicate systematic terrorist ambitions.

The non-violent promotion of *Hizb ut-Tahrir's* ideas, especially of economic equality and internationalism, is in sharp contrast to the economic failures and corruption of most Central Asian states, namely Uzbekistan, Tajikistan, and Kyrgyzstan.<sup>31</sup> For the official local clergy, who tend to view Islam through a nationalist prism, the movement also represents a significant threat.

Although infiltration by militant elements (such as former IMU fighters) cannot be entirely ruled out, given the strict hierarchy of the movement, the proclamations referring to an armed wing of the movement are rather a product of the wishful thinking of the local "anti-terrorist regimes".<sup>32</sup>

#### *Islamism in Contemporary Central Asia: A Critical Assessment of the "Terrorist Threat"*

In 2004-2005, Central Asia, and above all Uzbekistan, was shaken by the threat of alleged terrorist attacks that were, according to the official version of Uzbek leadership, executed by *al-Qaida* cells in Central Asia, i.e. by *Hizb ut-Tahrir*. Although involvement of terrorist groups with Islamic ideology in the spring 2004 attacks cannot be ruled out, judgment about the perpetrators must be made with greater care.<sup>33</sup> Despite the fact that certain members or

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30 Cf. Naumkin, cited above (Note 27), pp. 139-140.

31 In Turkmenistan, the movement's development has been stifled by the local autarchic regime; in the case of Kazakhstan, the movement's appeal is weak due to the relatively good economic situation, which is the best in the region.

32 For more information on the movement's structure cf. Naumkin, cited above (Note 27), p. 144.

33 The explosions in spring 2004 in Uzbekistan were claimed by the previously unknown Islamic Group of *Jihad*. According to the official Uzbek version, the atrocities were committed by *Hizb ut-Tahrir* and *al-Qaida*. It should be noted, though, that at that time the US was considering withdrawal of aid to Uzbekistan in connection with the government's record on human rights violations. See *Nezavisimaya Gazeta*, 19 April 2004.

individual cells of *Hizb ut-Tahrir* might have been involved, they are not representative of the whole movement and it would not be wise to generalize in this case.

The events in Andijan in 2005 have thus far been the peak of a largely virtual anti-terrorist struggle on the part of the Uzbek regime.<sup>34</sup> The “victim” was a splinter group, *Akromiya*, not well known prior to then, which had succeeded *Hizb ut-Tahrir* in the 1990s and tried to adapt its ideology to local conditions. Although it is virtually impossible to track down all the ins and outs of the operation, both those of the so-called Islamists and those of the governmental forces, the event had serious consequences for the whole of Uzbekistan. In terms of geopolitics, President Karimov changed the orientation of his foreign policy from the USA to Russia. With respect to the internal dynamics of the country, the regime showed its current strength (although it is questionable how long the regime can last). It also became clear that “Islamic extremism” is the main ideological antipode of the regime. Given the absence of a functioning governmental system under Karimov’s rule, any weakening of the regime could possibly lead to instability or even an armed conflict, in which Islamic ideology, especially its most radical forms, could become a deadly instrument. On the other hand, neither the events in Andijan nor the revolution in Kyrgyzstan the previous March created a real threat to the Uzbek regime. Thus, although Central Asia has a potential for Islamic fundamentalism, significantly “boosted” by the character of local regimes (especially in Uzbekistan), the threat of Islamic extremism is still quite weak in this region.

### Conclusion

In the Northern Caucasus and Central Asia, governments facing complex security threats prefer, for political reasons, to set their anti-terrorist rhetoric *a priori* in the context of the so-called war on terror, disregarding specific local conditions and developments. Hence, the governments themselves, through their attitudes and activities, have become a major cause of the proliferation of radical Islam in the region. Similarly, the Kremlin’s attempts to portray the conflict with Chechen separatists as a struggle against Islamic terrorism imported from the outside are part of a broader strategy to discredit the Chechen resistance movement at home, and, most importantly, abroad.

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34 For background see, e.g., M. M. Meyer (ed.), *Srednyaya Aziya: andizhanskiy stsensariy?* [Central Asia: The Andijan Scenario?], Moscow 2005; Andrea Berg, All Eyes on Central Asia: Disintegration in Uzbekistan and Kyrgyzstan, in: Institute for Peace Research and Security Policy at the University of Hamburg (ed.), *OSCE Yearbook 2005*, Baden-Baden 2006, pp. 163-176. A version more in conformity with the regime’s was presented by Shirin Akiner, *Violence in Andijan, 13 May 2005: An Independent Assessment*, Uppsala 2005.

Moscow's aim is to get *carte blanche* for the definitive suppression of the revolt.

For the same reasons, the Central Asian and North Caucasian regimes use the label "Islamist" or "Islamic terrorist" for anybody who is in political opposition. At present, there are thousands of prisoners in the countries of Central Asia accused of membership of Islamic groups aiming to overthrow the ruling secular regimes. Similar processes, albeit in a more limited fashion, can be observed in the Northern Caucasus. Central Asian and Russian elites (local and, to a lesser extent, also national) have, for political reasons, long since given up distinguishing between political Islam or Islamic fundamentalism, on the one hand, and militant Islamism or terrorism, on the other. Nevertheless, despite this biased attitude of the governing elites, the reality in Chechnya and, to a limited extent, in the Fergana Valley is strongly influenced by increasingly more powerful groups that profess militant Islam and use terrorist methods with growing ferocity as a part of their armed struggle.

The movements supporting such a strategy can rely on ever-increasing disappointment with the governing regimes (especially in Central Asia) and unsatisfied economic needs. Hence, it is again the governing elites themselves, who, by their corruption, incompetence, and lack of will to provide for the basic social and economic needs of their citizens, drive their people to radical opposition under green banners. On the other hand, none of these movements could guarantee stability for any of the regions observed. In the regions where there has already been an open confrontation between official regimes and Islamic movements (Chechnya, Tajikistan), political Islam – including its radical forms – has discredited itself to such an extent that the local population considers the governing regimes a "lesser evil".

Although an explosion of Islamic extremism in Central Asia arising entirely from local factors is unlikely, a conflict situation may arise if, for various reasons, one or more external actors – especially from the Islamic world, Russia, the USA, or China – has an interest in the destabilization of the region.

The threat of fanning the flames of violence that could even get out of control of the "managing power" is also a good means of applying pressure on Central Asian states, and especially on those in which there is a danger of similar developments, i.e. especially in Uzbekistan, Tajikistan, or Kyrgyzstan.

In conclusion, it should be emphasized that political Islam and Islamic terrorism in the Northern Caucasus and Central Asia is not a merely hypothetical threat. In the short- and mid-term both regions represent very fertile soil for the proliferation of various extremist movements that are, or will be, capable of destabilizing the regions. Attention should certainly be given to Islamic threats able to cause violent upheaval in either area. On the other hand, the local regimes (such as Kyrgyzstan) are fully capable of bringing the catastrophe on themselves without the destabilizing influence of Islamic radic-

alism. The local regimes try too hard to suppress indiscriminately any opposition movements and groups that might undermine their authority, and this also involves oppression of otherwise moderate groups. This vicious circle sows frustration, which can be harvested by the most radical groups.



## Destination Russia: Migration Policy Reform and Reality

### Introduction

Russia currently finds itself in a unique historical period in which migration policy can become an important means of providing economic and demographic security and helping to sustain its development.<sup>1</sup>

Such were the concluding words at a conference on labour migration held in St. Petersburg on 1-2 July 2004. Two years later, on 30 June 2006, the State Duma approved the draft law "On Migration Registration of Foreign Citizens and Stateless Persons in the Russian Federation". Following the Federation Council's approval on 6 July 2006 and President Vladimir Putin's endorsement on 18 July 2006, it will come into force on 15 January 2007. Migration has, in the meantime, become one of the most hotly debated issues in the political arena. President Putin, in his annual speech to the Federal Assembly on 11 May 2006, pointed out that the country was facing a demographic crisis and stressed the urgent need to introduce reforms in migration legislation to reverse current demographic trends.<sup>2</sup> His advisor, Viktor Ivanov, said that he was concerned by "the African death rate and the European birth rate"<sup>3</sup> in Russia.

Indeed, the Russian population has been in constant decline since 1986 with a natural loss of 0.7 to 0.9 million since 1993. Besides creating the necessary social conditions for improving the birth rate, the policy paper of the Russian Federation for the time period from the present until 2015, welcomes legislative measures that would facilitate registration and employment of foreign citizens.<sup>4</sup> The Social-Patriotic Party *Rodina* ("Motherland") and the Communist Party of the Russian Federation (CPRF) voted against the draft law in March. *Rodina* criticized it as "an effective instrument to supplant the

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1 Irina Ivakhnyuk, *Zaklyuchitelnyi ochet mezhdunarodnogo seminara "Perspektivy trud-ovoi migratsii v Rossii i ee regionakh: prava migrantov v kontekste ekonomicheskogo i demograficheskogo razvitiya"* [Concluding report on the international seminar "Perspectives on Labour Migration in Russia and Its Regions: Migrants' Rights in the Context of Economic and Demographic Development"], p. 3, available online at <http://www.uef.ru/rus/chairs/stat/seminar2004.doc> (author's translation).

2 Cf. Putin's State-of-the-Nation Address, at: [http://www.fond-opk.orthodoxy.ru/publ/publ\\_view.php?publid=39](http://www.fond-opk.orthodoxy.ru/publ/publ_view.php?publid=39) (in Russian).

3 Excerpts of Viktor Ivanov's statements at the round table organized by the State Duma in April 2006. Material provided by Stringer Information Agency, at <http://www.stringer.ru> (in Russian; author's translation).

4 See the Demographic Policy Paper of the Russian Federation for the time period until 2015, presented on 15 February 2001 at the meeting of the government of the Russian Federation, at: <http://www.akdi.ru/ECONOM/akdi.HTM> (in Russian).

indigenous population”.<sup>5</sup> However, the opposition between pro-Putin forces, who supported the adoption of liberalization measures, and the group known as the Faction of Opposition Parties (i.e. Communists and Patriots), reflects only one side of a much larger picture. Beyond domestic politics there is indeed an entire web of disputes relating to the management of migration in Russia. These range from violations of labour migrants’ rights by their employers and the police, via the growing racist and xenophobic sentiments of the indigenous population, to recent foreign policy trends that have contributed to the revision of legislation concerning migrants. The Russian Federation has indeed acknowledged that it needs to carry out a significant reform of migration law to solve the economic, demographic, and social problems it now faces. With the new law on migration possibly on the way to coming into force, policy makers, international organizations, local analysts, and the media have raised the issue of Russia becoming no less an immigration country than the United States. Yet quite apart from the controversial reasons behind these reforms, to what extent are indigenous Russians willing to accept foreigners? Can the legalization of a foreign labour force really benefit employers that are focused on maximizing profit? This paper takes a closer look at the mechanisms behind the Russian government’s intention to implement measures to facilitate the regulation of migration. In doing so, it considers the realities of migration management and the repercussions that current policy reforms might have. The case of labour migrants from Central Asia will be the main focus.

*“Russia is Not a Way Station” – Attempts to Manage Undocumented Migration*

Labour migration from Central Asia to Russia has increased since the end of the 1990s as the Russian economy started to recover. As a result of the economic transition process, the infrastructure and education and health systems in the states of Central Asia deteriorated, causing labourers from the agricultural and construction sectors as well as professionals to migrate to Russia in search of work. Russia, now the second most popular destination for migrants following the United States, has an estimated 10.2 million undocumented migrants.<sup>6</sup> There is no reliable information on the composition of the migrant population by ethnic origin, however, Caucasian and Central Asian citizens are believed to constitute the bulk of the immigrants to Russia, while Ukrainians, Moldovans, and Belarusians also represent a considerable seg-

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5 Andrei Arkhipov, *Pomoshchnik prezidenta Viktor Ivanov podvel chertu pod migrantami* [Presidential Advisor Viktor Ivanov Draws the Bottom Line for Migrants], at: <http://www.stringer.ru/publication.mhtml?Part=37&PubID=5607> (author’s translation).

6 Assessment of the Federal Migration Service. Cf. *V Rossii nakhodyatsya bolee 10 millionov nelegalnykh migrantov* [More than ten million illegal migrants in Russia], Ria Novosti, 11 December 2006, at: <http://www.rian.ru/society/20061211/56770101.html>.

ment of Russia's labour market. The demand for cheap labour in sectors such as construction, wholesale and retail trade, municipal and personal services, catering, and public transportation is considered to be the principal factor drawing migrants to Russia. With average economic growth of 6.4 per cent over the past several years, the Russian Federation has attracted millions of migrants from other parts the former Soviet Union.

Despite emigration and depopulation, Russia's policy makers are divided about allowing more migration to the country. The Communists and the Social-Patriotic Party raise doubts about the alleged economic benefits. They are anxious that the job market may marginalize Russian citizens and frightened by current levels of foreigners, let alone the continuing influx of migrants from the former USSR. "*Prokhodnoi dvor*" the Russian word for "way station" has the negative connotation of a terrain with no law or order. "*My – ne prokhodnoi dvor*" ("We are not a way station"), or "*Rossiia – ne prokhodnoi dvor*" ("Russia is not a way station") are among the statements constantly reiterated by politicians, NGOs, the media, and a disgruntled population. The notion that the country could be turned into a lawless place of this kind by illegal migrants and incompetent politicians is also discernable in the mainstream media. Far right groups such as the Russian Movement against Illegal Migrants and Immigrants use anti-migration propaganda to increase support for their nationalist ideologies.<sup>7</sup>

When considered in the context of the debate on "Fortress Europe", i.e. the restrictive migration policies of the newly enlarged European Union, Russia's *not-a-way-station* discourse might sound relatively welcoming at first.<sup>8</sup> As Tatiana Yudina rightly argues, Russia's demand for foreign labour is similar to that of European countries in the 1960-1970s.<sup>9</sup> The current migration legislation has not produced any positive results, and Russia, with heavy dependence on migrant labour to sustain its economy, cannot afford to adopt the same strict migration laws that some Western European states have. Russia is thus unlikely to close its doors to migrants completely. The labour deficit notwithstanding, Russia is still doing too little to adopt appropriate migration policies. In their policy paper to the World Bank, Yuri Andrienko and Sergei Guriev note that Russia still seems to be orienting itself towards the policy designs of the OECD countries that allow limited quota-based migration, which might have a negative impact on the economy. The two

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7 See, for example, the newspaper *Sovetskaya Rossiya*, at: [http://www.sovross.ru/2006/06/06\\_4\\_1.htm](http://www.sovross.ru/2006/06/06_4_1.htm), or at: <http://www.rednews.ru/article.phtml?id=5222>. The Russian National Union party (Russki Obshenatsionalni Soyuz, RONS) has been spreading the same anti-migrant messages. In May 2006, anti-migrant flyers with the words "Duma to Vote for Anti-Russian Law" were distributed in the metro stations of Moscow.

8 Cf. among others Hans-Joachim Albrecht, *Fortress Europe? – Controlling Illegal Immigration*, in: *European Journal of Crime Criminal Law and Justice* 1/2002, pp. 1-22, and Stefan Alsher, *Knocking at the Doors of "Fortress Europe": Migration and Border Control in Southern Spain and Eastern Poland*, in: CCIS Working Paper Series, *Working Paper 126*, November 2005, at: <http://www.ccis-ucsd.org/PUBLICATIONS/wrkg126.pdf>.

9 Cf. Tatiana N. Yudina, *Labour Migration into Russia: The Response of State and Society*, in: *Current Sociology* 4/2005, p. 1.

scholars are concerned at the direction being taken by Russian migration policy and note that, since 2002, Russia has had in place migration regulations based on those in effect in Germany, Austria, and the Netherlands during the 1990s. They argue that despite an improved system of border control, deportation procedures, and amnesties for undocumented migrants, even the OECD countries have not fully managed to regulate migration. They point out that foreign labour has turned out to be effective in underpinning long-term economic growth in the EU and the USA, and Russia, not being part of the OECD or the EU, should be considering a migration policy independently of other countries.<sup>10</sup>

If we consider some of the arguments of the migration policy makers, it becomes clear what Andrienko and Guriev are referring to. According to Mikhail Tyurkin, Deputy Head of the Federal Migration Service (FMS), stricter control of migration and better migration management could be of major benefit to the state, since “illegal migration has up to now deprived the state of a profit of 200 million US dollars per year”.<sup>11</sup> Further, he says that by hiring migrants as cheap labour, employers circumvent legal procedures and all the fiscal requirements they have to fulfill to employ foreign citizens. With legal employment, migrants, too, would have to pay tax and accept employment and temporary residence regulations in accordance with Russian law.

As far as legal employment of foreign citizens and the competition in the Russian job market are concerned, Tyurkin commented that Russian employers think only about their own profit. The Russian construction industry, for instance, attracts most of the foreign labour force but neglects migration regulations. Migrants have serious and often fatal accidents on construction sites. “Their rights”, Tyurkin argues further, “are constantly violated by their employers and nobody bears responsibility. These illegal actions are at variance with what the FMS is undertaking. Before hiring a foreign citizen, the employer must bear in mind that a Russian citizen has absolute priority. Only when the Russian job market cannot provide qualified manpower for specific jobs, can an employer consider hiring a foreign citizen.”<sup>12</sup> Although Russia’s desperate need for foreign labour is obvious, it becomes clear from Tyurkin’s arguments that further legislative reform on the status of undocumented migrants and work and residency permits is unlikely to benefit Central Asian labour migrants. A senior official from the FMS in Moscow said at a press conference in January 2006 that the FMS was distancing itself from a punitive migration policy and was considering the creation of labour exchange services as a more civilized way to deal with labour migration. He assured his listeners, that the FMS intended to legalize up to one million undocumented

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10 Cf. Yuri Andrienko/Sergei Guriev, *Understanding Migration in Russia. A Policy Note for the World Bank*, June 2005, pp. 22-23, at: <http://www.cefir.ru/download.php?id=216>.

11 *Sprosite Tyurkina* [Ask Tyurkin], interview with Mikhail Tyurkin, at: <http://www.gazeta.ru/turkin.shtml> (author’s translation).

12 Ibid.

migrants in the country. According to some leading Russian experts, however, priority will most probably be given to migrants of Ukrainian and Moldovan origin, because, “due to their command of the Russian language and cultural propinquity to our own population, they are better adapted to Russia and more qualified than migrants from Tajikistan”.<sup>13</sup> The so called “mini-amnesty” action that the FMS carried out in 2005 considered the legalization of about 7,000 Ukrainians. It is therefore not surprising that Russia has also been co-operating closely with Belarus in the area of migration regulation. The two countries have recently signed a contract on common migration cards.

### *Federal Migration Service*

To better understand Russian migration policy, it seems appropriate to take a look at the history of the state institution that is in charge of managing migration. In 1993, at the dawn of its independence, the Russian Federation under President Boris Yeltsin created an executive organ entitled the Federal Migration Service (FMS). Its functions were soon taken over by the Ministry of Federative Affairs and National and Migration Policies. This ministry was then abolished in 2001 and its tasks were allocated to the Ministry of Foreign Affairs and the Ministry of Economic Development and Trade. At the same time, functions related to migration, such as the regulation of undocumented migration and issues related to refugees and forced migration, were transferred to the Ministry of Internal Affairs (MIA). In a decree of 9 March 2004, President Putin re-established the FMS as an organ under direct executive control. While passport, citizenship, registration, entry permission, and visa issues have, since then, been the responsibility of the FMS, migration policy measures, their implementation, and the legal framework of migration regulation have remained the remit of the MIA. The MIA, as Tyurkin explains, “draws up the rules of the game and provides instructions and the FMS implements them. This increases the independence of the FMS and expands its functions. It puts into practice the migration laws which are authorized by the president, the government, the Federal Council, and the MIA.”<sup>14</sup>

These statements seem controversial in two ways. First, the FMS is an organ of the MIA and it might take several years for the employees of this state institution to exert an influence equivalent to that of their law enforcement counterparts. Hence, the successful implementation of new regulations

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13 Interview conducted by a TRIBUNE-uz journalist with Yevgeny Gontmakher, Director of Research of the Centre for Social Research and Innovation of the Russian Federation, at: <http://www.tribune-uz.info/society/?id1=7064> (in Russian; author’s translation. “Adapted” is the word taken over directly from comments in Russian).

14 Mikhail Tyurkin, *Inogda my namerenno idem na uzhestochenie nakazanii*. Intervyu [Sometimes We Toughen Punishments Intentionally. Interview], in: *Otechestvennye Zapiski* 4/2004, at: <http://www.strana-oz.ru/?numid=19&article=906> (author’s translation).

is not only a matter of distribution of power and resources between the FMS and the police, but will also take considerable time. Analyses carried out by both Russian and foreign scholars provide evidence on the everyday practices of police officers (i.e. the MIA) *vis-à-vis* migrants. In 2001, in the course of a research project focussing on shady practices in the sphere of law and order, the Institute of Social and Economic Studies of Population at the Russian Academy of Sciences surveyed 2,200 policemen. The scholars drew remarkable conclusions about the extent of corruption in Russian law enforcement institutions.<sup>15</sup> One should bear in mind that the average monthly pay of a policeman is 7,400 roubles (ca. 260 US dollars). A migrant worker employed at a construction company receives, on average, twice as much as a Russian police sergeant. It is just as much an everyday occurrence for a migrant to offer a bribe to the police in order to avoid deportation as it is for the police to extort cash from migrants. This being said, lawsuits against police officers who accept bribes from undocumented migrants are also regularly reported in the Russian media. Most policemen demand their “share” openly. The usual identity control procedure starts with the police informing the migrant of the invalidity and/or inauthenticity of his or her documents and demanding payment of “fines”. Very few policemen report the fines paid by undocumented migrants to their superiors. In Moscow’s large Cherkizovsky market, which is famous for its great number of Tajik migrants, police officers show up on a regular basis to “carry out controls”.<sup>16</sup> The extent to which FMS can gain independence is a question that remains open in this context, since Putin’s government is still struggling with corruption. Suffice it to mention the results of a study on corruption carried out by the Moscow-based NGO Information Science for Democracy (INDEM). INDEM discovered that compared to 2001, the market volume for corruption connected with getting registration at one’s place of residence (along with issuing domestic and foreign passports) increased by 33 per cent in 2005.<sup>17</sup>

The second controversial issue concerns the functioning of the FMS, specifically with regard to the implementation of the new migration legislation. The new law replaces the requirement on foreign nationals to seek permission to reside in the Russian Federation with a requirement to notify the

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15 For more information, see the website of *Laboratoriya ekonomicheskoi Sotsiologii*, at: <http://www.isesp-ras.ru/labryvk.htm>. For further results of this project see also Olga Kollennikova *Deformatsiya trudovoi deyatel'nosti rabotnikov militsii kak faktor oslableniya bezopasnosti naseleniya* [The Distortion of Police Services as a Weakening Factor of the Security of the Population], Dissertation Abstract, at: [http://www.transparency.org.ru/CENTER/DOC/book\\_20\\_Referat.doc](http://www.transparency.org.ru/CENTER/DOC/book_20_Referat.doc).

16 Having successfully picked up a few Tajik words, they meanwhile make their demands in the native language of the migrants.

17 Cf. Diana Schmidt, CPI, INDEM Studie und andere: Korruption in Russland 2005. Kommentar [Commentary on the Survey by CPI, INDEM, et.al.: Corruption in Russia 2005], in: *Russlandanalysen* 78/05, at: <http://www.russlandanalysen.de/content/media/Russlandanalysen78.pdf>.

authorities.<sup>18</sup> As of 15 January 2007, foreign nationals in Russia will no longer be required to register their place of residence, although this will remain mandatory for foreign nationals seeking temporary or permanent residence permits.

Under the new law, all foreign nationals arriving in Russia shall be required to fill out a notification form and inform the FMS of their entry into the country within three days of arrival. Key FMS officials are highly optimistic about this aspect of the new regulation. In order to simplify things for both FMS officers and the migrants themselves, the new law gives foreign nationals the possibility of notifying the authorities of their arrival in person at an FMS office or a post office; post offices will stock official migration cards with the FMS holographic strips and post office employees will be able to register newly arrived foreigners. Any person who has visited Russia, however, may have noticed the rigorous police controls, particularly as far as foreigners with a Caucasian or a Central Asian background are concerned. It would therefore be no exaggeration to argue that a migrant from a country such as Tajikistan and with little knowledge of Russian might not even make it to the post office, as mistreatment, arrest and the extortion of bribes by the police are known to be common. In addition, while Russia probably has the most reliable postal system of all the former Soviet republics, post offices are still struggling with deficiencies ranging from short-staffing and a lack of stamps, to problems with the electricity supply and customer service.

Many migrants to the Russian Federation might also still consider making use of services offered by informal networks to gain registration documents. Depending on what the migrant can afford, these permits vary as to their authenticity. Visitors to Russian cities will soon observe the many advertisements, posted by a variety of dubious mediating agencies, offering to facilitate registration (often within a day). The FMS is pinning its hopes on new regulations aimed at strengthening control over the “grey economy” as a whole, but the greatest challenge of all is that the implementation of the new regulations will only succeed if it goes hand-in-hand with anti-corruption measures. In the coming months, Russia’s undocumented migrants will find themselves forced underground. They are left with more fear of being deported and more uncertain questions about their future: Can they trust FMS agents more than policemen? Or would they be better off continuing to rely on informal services to get registration documents of dubious authenticity? Will the current series of FMS raids be as short-lived as the previous one? Or is it the start of a government crackdown?

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18 Cf. Federal Law On Migration Registration of Foreign Citizens and Stateless Persons in the Russian Federation, Article 2, para. 4 (in Russian).

The changes in migration policy notwithstanding, the Russian population's hostility towards the presence of foreigners is not likely to change in the near future. The Levada Analytical Center, which carried out sample surveys in 2005, discovered that 57 per cent of respondents had voted in favour of a residency prohibition for people of Caucasian background in their own district or city, and 53 per cent for similar measures for Central Asians. The majority of the respondents would not like to see migrants in their families or among their neighbours.<sup>19</sup> It is therefore surprising that Andrienko and Guriev, whose aim is to promote more liberal migration policies, claim that the average Russian is fairly tolerant towards the immigrant population.<sup>20</sup> In addition to quantitative surveys, ethnographic interviews have often shown that the Russian population has an attitude towards migrants of non-Slavic origin that is at best indifferent, and more generally intolerant.<sup>21</sup>

The growing hostility results in discrimination against migrants. *Chernye*, the Russian word for "blacks", is a common term for migrants, used because of the colour of their skin and/or hair. The law enforcement agents' treatment of migrants often includes verbal abuse and threats, ridicule, and the use of physical force. A common practice is the confiscation of valid identity documents by employers and police. Consequently, migrants are left without any rights. Although human rights NGOs such as Memorial and *Migratsiya i pravo* ("Migration and Law") offer migrants legislative support, the majority leave their homelands with little knowledge of their rights and rely on various informal networks rather than taking advantage of such support as is offered. In addition, hundreds of migrants are currently detained in prisons on remand primarily because they have given fictitious names and choose not to provide the police with their authentic identity documents. In such cases, the police, whose task it is to inform the relevant consulates, are unable to find out the true identities of the detainees, who therefore remain in detention and are unable to notify their families, let alone contact a lawyer. Lack of knowledge about migration legislation in Russia and, frequently, a poor command of the Russian language thus make migrants even more vulnerable to discrimination.<sup>22</sup>

Furthermore, as Mukomel points out, discrimination also exists in the form of limits to migrants' access to the housing market.<sup>23</sup> He analysed the contents of more than 20,000 rental notices published in free advertising

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19 Cf. Wladimir Mukomel, *Immigration und Russlands Migrationspolitik: Streit um die Zukunft* [Immigration and Russian Migration Policy: Struggle for the Future], in: *Russlandanalysen* 102/06, p. 4, at: <http://www.russlandanalysen.de>.

20 Cf. Andrienko/Guriev, cited above (Note 10), p. 36.

21 Cf. Saodat Olimova/Igor Bosc, *Labour Migration from Tajikistan*. IOM and Research Centre "Sharq", 2003.

22 These views were expressed by lawyers from the Moscow-based NGO *Migratsiya i pravo* in interviews with the author.

23 Cf. Mukomel, cited above (Note 19), p. 6.

newspapers between 2002 and 2004 and found that an astounding number (every third rental notice in some Russian cities) of advertisements contain the sentence “Will rent only to Russians”. Such advertisements can readily be found on electricity masts, in metro stations, and at bus stops, as I have seen.

Nationalism, racism, and xenophobia are of particular concern with regard to the emergence of skinhead groups and informal youth groups committed to racially motivated violence. For instance, in March 2006, the Tajik population in and beyond the borders of Tajikistan and anti-racist NGOs in Russia were deeply disappointed by the decision of a St. Petersburg court to charge seven skinhead youths suspected of murdering a nine-year-old Tajik girl in 2004 merely with hooliganism. One of the suspects was even acquitted.<sup>24</sup> During my field trip to Moscow in September 2005, the Tajik diaspora organizations *Migratsiya i pravo* and *Tojik Diaspor* emphasized that crimes committed by neo-Nazi youths on migrants had become a serious issue. Moreover, international human rights watchdogs such as Amnesty International together with the local NGOs Memorial and *Sova* (“owl”) accuse the Russian authorities of neglecting the growing criminal behaviour of neo-Nazi groups. Sociologists predict that the ghettoization of Russian towns in the near future is inevitable.<sup>25</sup>

### *The Importance of Economic Migration from Central Asia*

It would be no exaggeration to say that the economies of sending countries would not survive without labour migrants. This is as true of the Slavic countries of the former Soviet Union, Ukraine, Moldova, and Belarus, as it is of Tajikistan, Kyrgyzstan, and Uzbekistan. Particularly in Tajikistan, an impoverished country that was devastated by civil war in the 1990s, there are probably few extended families that have no member living and working in Russia. In 2003, remittances from Russia constituted some 20 per cent of Tajikistan’s GDP. While this is an official indicator based on the statistical data provided by the banks, the real amount could be as high as 40-50 per cent, as it is still more advantageous for migrants to transfer their money privately in cash or through unofficial couriers. These remittances, worth 280 million US dollars in 2003, exceeded the state budget of 250 million US dollars by twelve per cent. In neighbouring Kyrgyzstan, which is equally impoverished, remittances constituted around 55 per cent of the state budget. In Uzbekistan, around 500 million US dollars was received from migrants working in Rus-

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24 Cf. *Moscow News*, 26 March 2003, at: <http://www.mn.ru>.

25 For more on neo-Nazi and far right groups in Russia see Andreas Umland, Alexander Dugin, *die Faschismusfrage und der russische politische Diskurs* [Alexander Dugin, the Question of Fascism, and Russian Political Discourse], in: *Russlandanalysen* 105/06, at: <http://www.russlandanalysen.de/content/media/Russlandanalysen105.pdf>.

sia, equivalent to ca. 5.7 per cent of annual GDP.<sup>26</sup> More recent information provided by the Central Bank of the Russian Federation states that by the end of the second quarter of 2006, Uzbekistan was at the very top of the list of Central Asian countries in terms of transfers received through official banking systems and the Russian postal services. Approximately 220 million US dollars was transferred to Uzbekistan during that period, 204 million to Tajikistan, and 114 million to the Kyrgyz Republic.<sup>27</sup>

The extent of the positive economic effect of labour migration can also be illustrated with the following example. At the end of 2005, Tajikistan submitted its final report to the International Monetary Fund (IMF). In it, President Emomali Rakhmonov appealed for the continuation of the country's co-operation with the IMF. More strikingly, he was able to inform the IMF that his country's economy had grown by seven per cent in 2005, underscoring that transfers from abroad, in particular, had contributed to macroeconomic growth. In 2006, Tajikistan was included on the list of the 19 most impoverished countries to which the IMF extended 100 per cent debt relief. To quote the IMF:

Tajikistan has qualified for IMF debt relief because of its overall satisfactory recent macroeconomic performance, progress in poverty reduction, and improved public expenditure management. In particular, in recent years, Tajikistan has established a track record of satisfactory macroeconomic performance, the government has made significant progress in implementing its Poverty Reduction Strategy, and it has improved public expenditure management systems. Performance in these areas provides assurances that resources made available under the Multilateral Debt Relief Initiative will be used effectively.<sup>28</sup>

More information on the economic impact of labour migration to Russia from Central Asian countries other than Tajikistan is available in UNDP Human Development Reports. The most recent reports of the International Migration Organization (IMO) and the World Bank refer to the significance of labour migration from Central Asia to Russia, but for reasons of time and space their observations will not be discussed here.

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26 Cf. Olimova/Bosc, cited above (Note 21). Additional material was gathered from the website of the UNDP: <http://www.undp.org>.

27 Cf. Andrei Evplanov, Valyuta na eksport [Currency for Export], in: Rossiiskaya Biznes Gazeta, 5 September 2006, at: <http://www.rg.ru/2006/09/05/dengi.html>; and Tsentralnyi bank Rossiiskaya Federatsii, at: <http://www.cbr.ru>.

28 IMF To Extend 100 Percent Debt Relief to Tajikistan Under the Multilateral Debt Relief Initiative, International Monetary Fund, Press Release 05/303, at: <http://www.imf.org/external/np/sec/pr/2005/pr05303.htm>.

An examination of labour migration provides further evidence confirming Russia’s geopolitical and economic interests in Central Asia. The first half of 2006 has brought the Central Asian states and Russia even closer. Meetings of the Eurasian Economic Community, the Shanghai Cooperation Organization, and the Collective Security Treaty Organization during this time period indicate Russia’s intention to play a key role in the future of Central Asian countries. On 10 May 2006, in his state-of-the-nation address, President Putin mentioned Russia’s demographic problems and emphasized the importance of an effective migration policy and the necessity of prioritising the repatriation of Russian-speakers (“compatriots”) from abroad and implementing measures to facilitate this. In June 2006, he signed a decree “On the Voluntary Resettlement of Compatriots”, which will be effective as of 1 January 2007. A package with social benefits and employment possibilities will be offered to ethnic Russians returning from abroad. The FMS has been instructed to open offices in several countries, including the Baltic States, Germany, the USA, and Israel.<sup>29</sup>

Given Russia’s current intensive co-operation with the governments of the sending countries, a number of migration legislation reforms might be on their way to approval. All the work currently being undertaken in this area may be affected by the presidential elections that will take place in Tajikistan and Uzbekistan at the end of 2006 and the start of 2007, respectively. Russia will hold parliamentary elections in 2007, followed by presidential elections in 2008.

In the light of current foreign policy trends and Russia’s demographic deficit, a major move towards legalization seems inevitable. Obtaining a work permit will then require the negotiation of administrative hurdles with which Russia’s undocumented migrants are not entirely unfamiliar. Many analysts are sceptical as to whether these policies will lead to positive outcomes. Beyond demographic and economic benefits, Russian society seems reluctant to accept legalization measures. The integration of foreign citizens, whatever their status, will therefore require a considerable effort on the part of the indigenous population.

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29 Cf. *Putin Decreed Migration into Russia*, REGNUM News Agency, 28 June 2006, at: <http://www.regnum.ru/english/663221.html>.



## Building Co-operative Security



## The OSCE Document on Stockpiles of Conventional Ammunition<sup>1</sup>

The CSCE is rightly considered to have played a historical role in reducing the levels of conventional armaments available to both the former Warsaw Pact nations and the NATO countries following the end of the Cold War in Europe. The key instrument by which this was achieved was the 1990 Treaty on Conventional Armed Forces in Europe (CFE Treaty). But what happened to the enormous volumes of ammunition that had been stockpiled for use with conventional weapons systems in the case of war, but was not covered by any disarmament agreement – shells, bullets, grenades, bombs, mines, rockets, rocket fuel, and other explosive materials intended for use with the categories of weapons whose numbers have been so successfully reduced throughout the area of the application of the CFE Treaty since it entered into force?

In the closing decade of the last century, both NATO's then 16 members and the future NATO candidate states took steps to reduce their national ammunition stockpiles in line with the reduced level of armaments, i.e. by limiting procurement and destroying stocks in excess of national requirements. By contrast, in the states of the former Soviet Union – already facing the major challenge of safeguarding and eliminating nuclear and chemical weapons on their territories – there was no such adjustment of stockpiles of conventional ammunition that had been assembled during the Cold War. While only limited information is available on the types and numbers of surplus stocks scattered in depots throughout the entire area of the former Soviet Union, we must assume, extrapolating from the cases we do know about, that a significant proportion of the ammunition in existence at the end of the Cold War has still not been properly eliminated or safeguarded. It must also be assumed that the conditions under which these explosives are stored frequently fail to or only barely comply with local standards, let alone Western norms. The levels of conventional *weapons* overarmament reached in the Cold War suggests just how much *ammunition* we are dealing with here.<sup>2</sup>

To what extent does this “forgotten legacy of the Cold War” represent a security risk – primarily for the states doing the storing themselves, but also for the states outside the former Soviet space, including the European Union? The answer to this question has three parts:

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1 The opinions expressed in this contribution are solely the personal views of the author.

2 According to Ukrainian estimates, there are some two million tonnes of ammunition on Ukrainian soil that require safeguarding or elimination in the short or medium term. As ever more stores reach the end of their lifecycle, the volume is not steady but is constantly increasing.

- *Risk of civilian and military accidents* that can endanger civilian life and military personnel as well as the civil, military, and industrial infrastructure. Causes include spontaneous, uncontrolled detonations of improperly stored ammunition or ammunition that had been stored for too long or in unsuitable conditions (weather damage, chemical reactions, corrosion, etc.). The closeness of many storage facilities to civil infrastructure and built-up areas (residential and agricultural areas, factories, railway lines, power stations, etc.) entails the danger of disastrous consequences.
- *Environmental damage* caused by toxic chemical substances, such as explosives containing RDX<sup>3</sup> or the liquid rocket fuel “*melange*”<sup>4</sup> that was produced in the Soviet Union in large quantities. Toxic contamination of soil, water, and air may have a merely local impact, but the long-distance dispersal of pollutants by water and air may also lead to trans-regional effects (clouds of poison gas, poisoning of rivers, etc.).
- *The danger that military explosives fall into the hands of terrorists, organized crime, and other unauthorized channels*: There has been evidence of military explosives, which are often not only badly protected but also poorly inventoried, being used in terrorist attacks. Clearly, safeguarding military ammunition dumps and stockpiles of explosives against trafficking and diversion must be made a high priority as part of anti-terrorism efforts. Combating corruption also plays an important role in this.

None of these three types of threat is theoretical; all are concrete and supported by empirical evidence. Their multidimensional quality – the fact that they touch upon all three OSCE dimensions – makes them appear as a “natural” topic for the Organization. However, while other types of conventional weapons – above all anti-personnel landmines, small arms and light weapons (SALW), and man-portable air-defence systems (MANPADS) – were already made objects of national and international arms-control policy during the 1990s and now rightly have a prominent place on the global arms-control and disarmament agenda, the risk potential of surplus stocks of conventional ammunition and explosives in the pan-European security area has so far been given relatively little attention. Apart from the small-scale support projects run by NATO and the European Union, and occasional bilateral projects in a

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3 Cyclotrimethylenetrinitramine, known as RDX, and also as cyclonite, hexogen, and T4 has been manufactured since the Second World War and is still in use today. As a military explosive, RDX is highly brisant and poisonous, but particularly powerful, stable in storage, and highly versatile. It can be absorbed through the skin and acts on the central nervous system. Its manufacture and use has led to environmental and drinking water contamination.

4 “*Melange*” was the generic name given in the Warsaw Pact countries to a range of nitric acid-based oxidants that were a component of liquid fuels used in tactical guided missiles and air defence weapons. The substance is highly poisonous and corrosive, and requires particularly careful storage.

number of the Soviet successor states, it is largely thanks to the OSCE that this issue has been acknowledged as a matter for common security and subjected to systematic analysis.

#### *A Comprehensive Framework for Action for the OSCE*

In 2003, with the adoption by the foreign ministers of the OSCE's then 55 participating States of the "Document on Stockpiles of Conventional Ammunition" (DSCA),<sup>5</sup> the OSCE was the first – and is so far the only – security organization to establish a comprehensive framework for action whose aim is to identify and react effectively to the risks posed by surplus stockpiles of conventional ammunition. After negotiations lasting about a year, the Document, based on a Franco-Dutch initiative, was adopted by the OSCE Forum for Security Co-operation (FSC) on 19 November 2003 and endorsed by the Eleventh OSCE Ministerial Council in Maastricht on 2 December 2003.<sup>6</sup>

In general, the Document gives affected participating States the opportunity to draw attention in the FSC to existing surplus stockpiles and the danger they pose and to ask for support from other participating States in safeguarding or eliminating these stockpiles, this being grounded in the OSCE's concept of co-operative security. The Document includes several indicators that can be used to determine the existence of surplus stocks and makes recommendations on how to deal with them. It also establishes an assistance procedure by means of which the participating States can co-operate in eliminating or safeguarding existing stockpiles.

In the Document, the participating States recognize "the security and safety risks posed by the presence of stockpiles of conventional ammunition, explosive material and detonating devices in surplus and/or awaiting destruction in some States in the OSCE area".<sup>7</sup> They also acknowledge that "the risks posed by surplus stockpiles of conventional ammunition, explosive material and detonating devices are often created by precarious and unsatisfactory conditions of storage".<sup>8</sup> They therefore agree "that the stockpile security should be taken into account and that proper national security and safety control over stockpiles of conventional ammunition, explosive mate-

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5 OSCE, OSCE Document on Stockpiles of Conventional Ammunition, 19 November 2003. FSC.DOC/1/03, endorsed by the OSCE Ministerial Council in December 2003, Decision on the OSCE Document on Stockpiles of Conventional Ammunition, MC.DEC/9/03, in: OSCE, *Eleventh Meeting of the Ministerial Council*, 1 and 2 December 2003, Maastricht 2003, MC.DOC/1/03, 2 December 2003, p. 87; available online at: [http://www.osce.org/documents/fsc/2003/11/1379\\_en.pdf](http://www.osce.org/documents/fsc/2003/11/1379_en.pdf).

6 In accordance with Ministerial Council Decision MC.DEC/5/04 from 2004, the FSC presented the 13th Ministerial Council (2005) with a progress report on this topic. The report was endorsed by a decision of the Ministerial Council in Ljubljana that called upon the participating States to make a greater effort to safeguard and eliminate small arms and stockpiles of ammunition (MC.DEC/8/05).

7 Document on Stockpiles of Conventional Ammunition, cited above (Note 5), para. 12.

8 *Ibid.*, para. 20.

rial and detonating devices is essential in order to prevent risks of explosion and pollution, as well as loss through theft, corruption and neglect”.<sup>9</sup>

To manage these risks, the participating States resolved “reflecting the OSCE concept of co-operative security and working in concert with other international fora [...] to establish a practical procedure, requiring minimal administrative burden, to address these risks by providing assistance for the destruction of these stockpiles and/or upgrading stockpile management and security practices”.<sup>10</sup> Where opportune, this should be carried out in concert with other regional or international organizations. Where states seek the support of the OSCE, “the request for and the provision of assistance will take place on a voluntary basis [...] The substance and scope of assistance will be determined on a case-by-case basis for each concrete request by a participating State after appropriate consultations with assisting/donor and requesting States.”<sup>11</sup>

The Document also states that “the participating States recognize their primary responsibility for their own stockpiles of conventional ammunition, explosive material and detonating devices, as well as identification and reduction of corresponding surpluses”.<sup>12</sup> One of the aims of the initiative is therefore “to strengthen national capacity in order to enable participating States, in the long run, to deal with such specific problems on their own”.<sup>13</sup> The Document also seeks to increase transparency via the voluntary exchange of information on surplus stockpiles and to develop, within the FSC, “a ‘best practice’ guide of techniques and procedures for the destruction of conventional ammunition, explosive material and detonating devices, and the management and control of stockpiles”.<sup>14</sup> Under Section VI of the Document, the chairmanships of the OSCE and the FSC may ask the Conflict Prevention Centre in the OSCE Secretariat for technical support during any phase of the procedure.

#### *The Demand Situation and the OSCE’s Response*

How have the OSCE and the participating States reacted to the platform provided by the DSCA? And how successful have efforts been to operationalize the framework for activity, and to initiate concrete co-operation between states requesting assistance and those providing it?

On the “demand” side, the reaction was immediate: Only three weeks after the Document was approved, Ukraine became the first participating State to apply for support based on the DSCA; this was followed, in the

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9 Ibid.

10 Ibid., para. 13; cf. also paras 29-35.

11 Ibid., para. 15.

12 Ibid., para. 14.

13 Ibid.

14 Ibid., para. 38.

course of 2004, by applications from Belarus, the Russian Federation, Tajikistan, and Kazakhstan. In addition, during 2004 and 2005, Armenia, Kazakhstan, Uzbekistan, and Azerbaijan also applied for assistance in decommissioning *melange* liquid rocket fuel, following the successful completion of a – smaller – project for the disposal of rocket fuel in Georgia in 2003. In September 2004, Ukraine also made a supplementary application for support to destroy over 16,700 tonnes of this fuel.

In total, eight OSCE participating States, all members of the Commonwealth of Independent States (CIS), have so far applied for support on the basis of the DSCA.<sup>15</sup> While the “first generation” of applications for assistance concerned “classical” conventional ammunition stockpiles (small to large calibre firearm rounds, grenades, rockets, bombs, and similar, including their detonating mechanisms), in 2005, the *melange* issue – which is, despite its great risk potential, more straightforward and less cost intensive – came more to the fore. This may have been “inspired” by the successes achieved in the OSCE project that began in 2004 to decommission 862 tonnes of liquid rocket fuel in Armenia (see below).

The technical and financial scale, the points of departure, and the problems that need to be resolved in the applications of these eight states<sup>16</sup> diverge considerably, as do the related estimates of their costs.<sup>17</sup> While some are local in character (such as the Russian application of 19 May 2004, which is exclusively concerned with Kaliningrad), others focus on national problems (e.g. Ukraine). What they all share is the goal of co-operation and support in building decommissioning capacity on an industrial scale. In addition, some applications also involve safeguarding stockpiles that are not earmarked for destruction (Belarus, Russia, Kazakhstan). Ukraine also requested support in safeguarding and refurbishing the ammunition depot in Novobogdanivka (Zaporozhye Region), where there was an accident with serious consequences in May 2004 and another massive uncontrolled explosion in July 2005.

The nature of the response to these applications and the extent to which progress has been made are as varied as the range of problems themselves. The most substantive progress has been made in response to Armenia’s (May 2004) and Tajikistan’s (21 July 2004) applications: In Armenia, a plant was completed in mid-2006 to chemically convert some 862 tonnes of *melange* being stored in the earthquake-prone Kaltakhchi region. The implementation of this project, which has received 1.5 million euros from the USA, Finland, and Germany, and is supported by the OSCE Office in Yerevan, is to be

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15 As well as applying for assistance, the Russian Federation has also distributed a broadly formulated offer of support to other participating States.

16 A detailed overview is contained in the report given by the FSC Chairman on implementing the DSCA to the Ministerial Council in Ljubljana, in: OSCE, *Thirteenth Meeting of the Ministerial Council, 5 and 6 December 2005, Ljubljana 2005*, MC13EW66, 6 December 2005, at: [http://www.osce.org/documents/mcs/2005/12/18653\\_en.pdf](http://www.osce.org/documents/mcs/2005/12/18653_en.pdf).

17 Ukraine alone has applied for four sub-projects with a total cost of 132 million euros. However, estimates by independent experts are only available for a tiny part of this.

completed by 2007. An 18-month-long project in Tajikistan to destroy explosives stemming from the civil war in the 1990s and now stored in dangerous conditions in the capital Dushanbe was completed in late 2006. The main sponsors of this project, which will cost around one million euros, are Norway, France, Sweden, Finland, the Netherlands, Slovenia, and the USA. Germany is providing technical advice on all phases of the project. It has been announced that this pilot phase, which is initially limited to the capital and the surrounding region, will be rolled-out to other parts of the country in a second phase of the project.

As well as the ongoing *melange* decommissioning project in Armenia, a similar undertaking in Azerbaijan is also currently being considered, concerning the conversion of some 1,400 tonnes of liquid rocket fuel (application made on 26 July 2005). The cost of this project, which may be implemented in co-operation between the OSCE and the NATO Science for Peace programme, is likely to be between one and two million euros.<sup>18</sup> In Kazakhstan (1,500 tonnes), an international tendering process is currently being prepared on the basis of a needs assessment survey presented in December 2005. Uzbekistan's application of 5 January 2005 for the decommissioning of over 1,000 tonnes of *melange* has been put on hold – probably not for technical or financial reasons, but on political grounds. In Ukraine, the fact that there are 16,747 tonnes of *melange* to be dealt with creates an enormous financial and technical challenge. The OSCE Project Co-ordinator in Kyiv is currently helping to seek a solution to this problem.

In the safeguarding and elimination of *ammunition*, which is more complex and costly than the disposal of liquid rocket fuel, the OSCE has not yet been able to start any project – with the exception of the small project in Tajikistan as mentioned above. Experts from a range of OSCE participating States have nonetheless visited all the applicant states with the exception of Belarus and Uzbekistan to perform fact-finding or technical evaluation, on which basis detailed problem descriptions and scoping studies have been drawn up. In two cases, where suitable (sub-)projects had already been identified (Kazakhstan and Ukraine), an international tendering process has already been carried out. In other states it remains necessary to identify and plan appropriate projects as well as to tender for offers. But here, too, the problem descriptions and figures gathered create a foundation that will enable suitable measures to be pursued either by the OSCE or by the international community.

Efforts to establish institutional contacts with other international organizations with the aim of co-operating or co-ordinating on eliminating or safeguarding stockpiles of ammunition have proven relatively successful: Besides holding ongoing co-ordination discussions with the NATO Partnership for Peace programme (PfP), on 2 June 2006, the Conflict Prevention Centre

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18 This plan has become more urgent following the accident in the Mengichevir depot in March 2006 in which two *melange* containers collapsed.

sealed a co-operation framework agreement with the UNDP on the technical implementation of small arms and ammunition projects in the OSCE area. The first participating State to offer material support for the projects mentioned in the framework agreement was Sweden, which announced it would pay 2.7 million euros into the relevant UNDP trust fund. Initiated by France and Germany, the resolution on “Problems arising from the accumulation of conventional ammunition stockpiles in surplus”, which was adopted unanimously on 8 December 2005 at the plenary meeting of the 60th UN General Assembly, was a vital step towards raising awareness in the context of the UN.<sup>19</sup>

#### *Interim Report 2006*

The OSCE’s record of activity and success in the area of ammunition and *melange* thus certainly appears respectable some three years after the adoption of the DSCA. There can be no doubt that the issue of surplus stockpiles of ammunition now has a higher political profile – including in the affected states, where the attention paid to this topic within the OSCE framework has clearly raised awareness. On the other hand, *de facto* successes, such as those already achieved in Armenia and Tajikistan, have so far not materialized in the other applicant states, while large flows of money for establishing further decommissioning capacities or improving storage facilities have also remained unforthcoming. Were expectations on the part of these applicant countries for rapid “settlement” of their cases unrealistic? Has the OSCE failed in the implementation of the DSCA in these cases? Or, when it comes to major undertakings, should the OSCE restrict its role to awareness raising and early warning, recognizing that it does not meet the requirements to take a leading operational role in major ammunition projects?

In attempting to reach a verdict on the OSCE’s ability to implement the DSCA, many factors must be taken into consideration. First, the sudden demand for support services following the adoption of the Document has confronted the OSCE with a material and financial challenge of considerable proportions. Because the work of dealing with the various applications for assistance in the area of ammunitions is at different stages in each case, it is not yet possible to draw any conclusions regarding the eventual outcome of the Organization’s work.

Second, we must take into account that the OSCE *as an institution* (in contrast to the participating States) is poorly equipped to meet the demand it encouraged by adopting the DSCA. Institutionally, it possesses – aside from

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19 Resolution A/RES/60/74. Among other things, the resolution calls upon all states in a position to do so to assist other states in eliminating or safeguarding stockpiles bilaterally or through international or regional organizations, and asks all member states to jointly identify measures capable of suppressing illicit trafficking associated with these stockpiles.

the normative framework provided by the Document itself and limited prior experience, especially in Moldova<sup>20</sup> – limited institutional expertise and resources that it can apply to solving the ammunition problem. This is in contrast to its “rival” in this area, NATO, which has long pursued projects for the safeguarding and elimination of small arms and light weapons, anti-personnel mines, and MANPADS with the states of the Euro-Atlantic Partnership Council (EAPC) via its PfP and Science for Peace programmes and has recently also been active in safeguarding (legacy) ammunition and *melange*. Furthermore, with the NATO Maintenance and Supply Agency (NAMSA), NATO possesses an agency for the operational execution of these programmes. Nor does the OSCE as an institution – here analogous to NATO’s PfP programme – have its own budgetary resources for eliminating and safeguarding ammunition, but is rather dependent on the voluntary extra-budgetary contributions of its participating States.

Another problem in countries such as Belarus and Uzbekistan is that political conditions are not always conducive to close co-operation with Western donor states. However, in these countries in particular, the traditional confidence-building concept of co-operative arms control does offer itself as an area of potential co-operation.

Despite these limiting factors, the OSCE, with the normative basis provided by the DSCA, the inclusivity that allows it to span opposing blocs, its traditional strengths in co-operation on arms control policy, and its comprehensive concept of security, appears to be better qualified than virtually any other security organization to deal with the problem of surplus stockpiles of ammunition, including its operational aspects. There is no evidence that the willingness of potential donor states to make a financial contribution is the only factor that determines whether appropriate safeguarding steps are taken. The resource-rich, relatively affluent applicant states would certainly be capable, if they made the appropriate budgetary decisions (based on national prioritization), of self-financing at least the most urgent projects.<sup>21</sup> Where a technological or organizational deficit exists, it can be addressed by means of technical assistance, knowledge transfer, and capacity-building. It has also become apparent that sometimes merely the provision of technical support in straightforward and inexpensive safeguarding projects can lead to considerable improvements in security.

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20 “Voluntary” funds for the transportation of Russian ammunition out of Transdnistria.

21 The Russian Federation has estimated the costs of two sub-projects in Kaliningrad at 50 million US dollars. In the cases of Kazakhstan and Azerbaijan, the estimated cost of the disposal of *melange* stocks is between one and two million euros per country.

Successfully filling out the framework of norms set down in the DSCA requires, on the one hand, a clear understanding of opportunities and goals in the OSCE context, and, on the other, a shared desire on the part of applicant and donor countries to co-operate. In addition, the experience gathered should be evaluated in an ongoing lessons-learned process, and future activities optimized in its light. To support the participating States in this, the (German) then FSC Co-ordinator for Ammunition Projects presented, on 3 November 2004, a ten-point paper, based on the conclusions of a one-day special FSC meeting on 29 September 2004, with recommendations on how the identification of appropriate support projects, approaches, and measures could be facilitated and suitable project proposals set in motion, taking account of the framework conditions in the OSCE.

The ten-point paper has three addressees: applicant countries, participating States that envisage a role for themselves in the provision of support to other states, and OSCE structures, including the Secretariat and field operations. In Armenia and Tajikistan, we have already seen that the latter are capable of playing a decidedly helpful role in project execution.

The paper recommends to the *applicant states* that they begin by examining whether all *domestic* means of tackling the ammunition problem have been exhausted and how to take advantage of any that have not been employed. Should the applicant state not possess the necessary resources and capacities and thus have reason to call upon the OSCE participating States for support, the paper recommends that feasibility studies be carried out (with external help if necessary) to describe the specific problem situation, and that these should contain concrete suggestions of solutions and projects. Given the scale of the applications and the complexity and diversity of the problems described therein, the paper recommends that these proposals be divided into modular – and hence more manageable and useable – “packages”, which may be evaluated in more detail by states potentially providing support (with potentially different “donor interests”) acting either individually or collectively with other states. This results inevitably in a prioritization of the most urgent tasks, something that is necessary from the donors’ point of view.

For *states interested in providing (financial, technical, and personnel) support*, the paper recommends promoting broader inter-ministerial approaches to solution-finding within their own national administrations and the establishment of networks beyond the narrow foreign and security policy context (foreign and defence ministries and armed forces). The departments responsible for environmental affairs and economic co-operation and development as well as national and international programmes aimed at combating terrorism and organized crime are particularly relevant here. The paper also encourages them to co-operate with “likeminded” OSCE States in seeking and perhaps jointly pursuing identical or similar areas of interest. This con-

cerns not only the provision of major financial support, but also such things as making available existing national expertise, or providing support in the drafting of feasibility studies or project proposals.

Turning to *OSCE structures*, the paper recommends actively supporting the FSC as the primary information, discussion, and decision-making platform for the ammunition issue. This should follow a cross-dimensional approach that corresponds to the nature of the ammunition question. *Ideally*, this will entail the FSC co-operating closely with, in particular, the OSCE Conflict Prevention Centre, the Co-ordinator of OSCE Economic and Environmental Activities, the Action Against Terrorism Unit, the Strategic Police Matters Unit, and the Press and Public Information Section of the OSCE Secretariat, as well as (via the OSCE Permanent Council) with the OSCE field operations in affected states. The OSCE Parliamentary Assembly can also play an important role in mobilizing national and international awareness.

The ten-point paper recommends that all actors seek to co-operate or to expand co-operation with regional and/or international organizations (above all the United Nations, NATO, and the European Union) in order to generate synergies. This could entail joint projects, but also the creation of common agenda-building platforms designed to raise international awareness of the issue.

The results so far achieved in dealing with the various applications for support indicate increasing professionalism in the planning and identification of project activities. In the project development phase, there has been clear progress thanks to better co-operation between applicant states and experts from other participating States and OSCE field operations. However, the potential for further improvements is by no means exhausted. Additional gains in efficiency could be realized, for instance, by developing integrated project solutions that take a more “holistic” approach to the economic, technological, environmental, and security aspects of the issue in an affected state and combine these in project proposals that are capable of gaining approval. In doing this, more use could be made of the expertise of private contractors.

#### *OSCE Best Practice Guide on Safeguarding and Eliminating Stockpiles of Conventional Ammunition*

Ultimately, the goal of the DSCA is to help affected states to reach, more or less rapidly, a position where they can manage their surplus ammunition acting independently and using their own resources. Proper storage in compliance with environmental and security standards, in particular, requires a sustainable, long-term policy that can, in the last instance, only be implemented under national ownership. Providing support that aims to help affected states to help themselves is the goal of the OSCE “best practice guide of techniques and procedures for the destruction of conventional ammunition, explosive

material and detonating devices”, currently being drafted by several participating States.

In the FSC, on 11 March 2005, the United States called upon the participating States to develop this best practice manual and announced the development of a first best practice guide on stockpile management. The US paper, which was co-proposed by Germany, Hungary, Slovenia, Sweden, and the United Kingdom – here largely echoing the recommendations of the DSCA (para. 38) – called for the development of additional guidelines on the following topics: the physical security of stockpiles; marking, registering, and inventorying existing stockpiles; transport security; identifying surpluses; and methods of safely eliminating them.

The initiative aims at providing all participating States with concrete data gathered from experience, standards, and best practices gained in national projects. These should enable them to take responsibility for practical measures to safeguard and eliminate stockpiles of ammunition. This has no influence on the provision of additional, further-reaching support. The Best Practice Guide on Ammunition thus pursues a similar goal and has a similar format as the Best Practice Guide on Small Arms and Light Weapons that the OSCE published in 2003. Like the SALW Guide, the Ammunition Guide was not adopted as a document requiring consensus among the participating States but was rather the result of work on the part of various individual participating States at the national level. Consequently, it does not have politically binding force, and the Guide’s proposals and recommendations are not to be taken as absolute standards or benchmarks, but as general guidelines that can be adapted to local conditions from case to case.

At the US paper’s initial presentation, Germany already declared itself willing to contribute a guide on transport security. The drafting of this guide is currently being finalized in the Editorial Review Board for Best Practice Guides, which is open to all participating States. The consultation process within this informal editorial board aims to ensure that the approaches recommended are applicable to other participating States, despite the differences in the tasks that face them. At the same time, the Netherlands is developing guidelines on the safe elimination of ammunition; and Sweden is to contribute a chapter on the physical security of stockpiles. Further topics may emerge out of the OSCE’s ongoing work in the field. When the guides are complete, it is intended that they will be published as a handbook in all six OSCE official languages.

Because the (voluntary) implementation of its recommendations is a matter the participating States have to decide at the national level, the effectiveness of the handbook will be hard to measure. Nevertheless, with its practical procedures and standards, it is designed to provide lawmakers and planners with an effective and useable *vade mecum* for dealing with stockpiles of ammunition. As in the case of the Arabic language version of the OSCE Handbook of Best Practices on Small Arms and Light Weapons,

which was proposed and financed by Germany, the handbook on ammunition may also find application outside the OSCE region. The relevant bodies of the United Nations as well as other regional organizations (OAS, Arab League, African Union, ECOWAS, Collective Security Treaty Organisation, Shanghai Cooperation Organisation, etc.) offer a wide range of platforms that could bring the handbook to a variety of interested parties.

### *Summary and Outlook*

The enormous stockpiles of non-safeguarded conventional ammunition in the territory of the former Soviet Union represent an underestimated security risk that affects all three dimensions of the OSCE equally. By adopting the DSCA, the OSCE has been a pioneer in establishing not only an early warning system but also a normative framework for reducing this risk. This framework now needs to be given content. The challenge is to realize effective and targeted co-ordination of measures that establish clear priorities and place the welfare of citizens in the OSCE area at the top of the agenda.

As far as OSCE policy is concerned, the Document continues the CSCE/OSCE's tradition of arms control policy, contributing to revitalizing the Organization's politico-military dimension. By addressing this *gravamen* of the CIS states, it thereby also strengthens the Organization as a whole. The OSCE's field operations can also benefit from the operationalization of the DSCA: By offering themselves as local points of contact for the support of relevant activities, they will see their function as co-operative OSCE field instruments – as well as their acceptance – strengthened.

Finally, the Document links with and complements the OSCE SALW Document of 2000 as indeed it does the OSCE's entire SALW *acquis*. While the OSCE's SALW decisions from 2000 to 2003 aim at the regulation of national stocks of small arms and the cross-border trade, the area of small arms ammunition, though complementary, was left out. The DSCA addresses this, at least in part. Although there are regulatory gaps in the Ammunition Document – as there are in the Small Arms Document – e.g. with regard to the marking and traceability of new ammunition, some of its provisions, for instance, in the areas of storage and elimination, and in the definition of surplus indicators, are immediately applicable to small arms ammunition.

Alongside a greater effort on the part of the affected states themselves and better national and international co-ordination of effective assistance with other participating States, the most urgent need is for information exchange, co-ordination, and – where applicable – co-operation between the OSCE and other actors in the field of security. This is the only way to avoid duplication and unnecessary competition while providing assistance rapidly and effectively where it is needed most. The need for co-ordination is greatest with respect to the United Nations, NATO, and the European Union. In the case of

the EU – which is partly also motivated by acknowledged self-interest – the European Neighbourhood Policy provides a framework for it to become involved in the safeguarding and elimination of ammunition in its immediate vicinity. No less politically promising is the prospect of a similar engagement in Central Asia,

In terms of OSCE policy, the topic of ammunition contains the possibility of new approaches to co-operation across old and new divides – in an area in which the OSCE is a competitive player within the concert of the Euro-Atlantic security organizations. A security issue that does not divide the participating States into East and West and a cross-dimensional, co-operative approach in the best traditions of the OSCE: Given all the splits and confrontations in which the participating States are involved in other areas, is this not a promising opportunity?



## Recommendations on Policing in Multi-Ethnic Societies<sup>1</sup>

### *Introduction*

On 9 February 2006, the OSCE High Commissioner on National Minorities (HCNM), Rolf Ekéus, officially presented the Recommendations on Policing in Multi-Ethnic Societies to the 592nd Plenary Meeting of the OSCE Permanent Council (PC) in Vienna.<sup>2</sup> In his address, the HCNM introduced the Recommendations as “the result of work carried out by a group of experts I gathered together” to examine “an issue that I have found to be of profound importance during my work in the field, namely the role of the police in de-escalating tensions and promoting harmonious inter-ethnic relations”.<sup>3</sup> It is a timely document relevant both East and West of Vienna. This article will place these recommendations in the context of the conflict prevention mandate of the HCNM, and discuss their origins and background as well as the drafting process and the legal and political foundations. In addition, it will provide a brief overview of the six chapters of the document.

### *General Recommendations and the HCNM's Mandate*

The Policing Recommendations are the fifth set of recommendations elaborated by internationally recognized independent experts under the auspices of the HCNM. Previous recommendations were: The Hague Recommendations Regarding the Education Rights of National Minorities (1996); the Oslo Recommendations Regarding the Linguistic Rights of National Minorities (1998); the Lund Recommendations on the Effective Participation of National Minorities in Public Life (1999); and the Guidelines on the use of Minority Languages in the Broadcast Media (2003).<sup>4</sup> The issues dealt with in these recommendations were identified by the HCNM, over the course of more than ten years of intense activity, as recurrent sets of concerns related to minorities. With a view to achieving appropriate and coherent application of relevant minority rights in the OSCE area, the HCNM requested groups of

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

2 *Recommendations on Policing in Multi-Ethnic Societies*, February 2006. The full version of the Recommendations and the Explanatory Note can be found at: [http://www.osce.org/documents/hcnm/2006/02/17982\\_en.pdf](http://www.osce.org/documents/hcnm/2006/02/17982_en.pdf).

3 Statement by OSCE HCNM Rolf Ekéus to the 592nd Plenary Meeting of the OSCE Permanent Council (PC), Vienna, 9 February 2006, p. 3, at: <http://www.osce.org/hcnm>.

4 These recommendations are available (in several languages) free of charge from the Office of the HCNM and can be downloaded from <http://www.osce.hcnm.org>.

internationally recognized independent experts to elaborate guidance on the application and interpretation of the broad and generally formulated international minority rights standards. Based on experience and examples of good practice, the recommendations are intended to serve as reference documents for law and policy makers in the OSCE participating States.

These general recommendations are one of several working instruments the HCNM has developed for carrying out his conflict prevention mandate.<sup>5</sup> This mandate states that the HCNM “will provide ‘early warning’ and, as appropriate, ‘early action’, at the earliest possible stage in regard to tensions involving national minority issues which have not yet developed beyond an early warning stage, but, in the judgment of the High Commissioner, have the potential to develop into a conflict within the [O]SCE area, affecting peace, stability or relations between participating States”.<sup>6</sup> As stipulated in paragraph 6 of the mandate, the HCNM, in considering a situation, will take into account “the availability of democratic means and international instruments to respond to it, and their utilization by the parties involved”.<sup>7</sup> Thus, the mandate of the HCNM constitutes an ideal combination of the OSCE’s politico-military and human dimensions.<sup>8</sup> In line with the comprehensive security concept of the OSCE, the HCNM promotes the implementation of international minority rights standards to achieve long-term peace and stability.<sup>9</sup> He does this in his specific recommendations to governments, in his statements and speeches, and in the elaboration of concrete projects. The general recommendations on specific topics or issues (“thematic recommendations”) are tools to assist governments in translating minority rights standards framed in general terms into concrete laws and policies.

#### *Origins and Background of the Policing Recommendations*

Police-related issues appeared on the OSCE agenda at a relatively late stage. The topic was “discovered” only at the end of the 1990s when the OSCE Summit in Istanbul (1999) decided that the Organization should enhance its police-related activities beyond those already being conducted in Croatia and

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5 For a concise overview of the working instruments of the HCNM, see Claus Neukirch/Katrin Simhandl/Wolfgang Zellner, *Implementing Minority Rights in the Framework of the CSCE/OSCE*, in: *Mechanisms for the Implementation of Minority Rights*, Strasbourg 2005) pp. 165-167.

6 CSCE Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 702-777, Chapter II, para. 3, p. 716.

7 *Ibid.*, para. 6.

8 Cf. Arie Bloed, OSCE assistance for police has to be strengthened, in: *Helsinki Monitor* 3/2005, p.222.

9 Cf. Krzysztof Drzewicki, Introducing Recommendations on Policing in Multi-Ethnic Societies – A New Tool of the OSCE High Commissioner on National Minorities, in: *Helsinki Monitor* 2/2006, p. 176.

Kosovo.<sup>10</sup> The Charter for European Security, which was adopted at this Summit, provided for the enhancement of “the OSCE’s role in civilian police-related activities as an integral part of the Organization’s efforts in conflict prevention, crisis management and post-conflict rehabilitation”.<sup>11</sup> Further attention was given to this topic at the Bucharest Ministerial Council in December 2001<sup>12</sup> and the Maastricht Ministerial Council in December 2003.<sup>13</sup> In 2001, the OSCE established the post of Senior Police Adviser. This position was filled from 2002 to 2006 by UK Police Commissioner Richard Monk. In February 2006, he was replaced by Kevin Carty, an Assistant Police Commissioner in the Irish National Police Force. Under Monk’s guidance, a Strategic Police Matters Unit (SPMU) was set up, staffed by a small group of seconded and contracted police specialists. This unit has taken the initiative to develop various Police Assistance Programmes in a number of countries, the largest of which was designed for Kyrgyzstan. Similar programmes have also been created for Armenia, Azerbaijan, and Georgia.<sup>14</sup> In addition, several OSCE field missions, such as the OSCE Missions to Kosovo, Croatia, Serbia, and Montenegro and the OSCE Spillover Monitor Mission to Skopje, incorporate police-related activities. Moreover, the Office for Democratic Institutions and Human Rights (ODIHR) conducts several on-going police-related activities, such as training programmes on human rights standards for law enforcement officials.<sup>15</sup>

10 Cf. Bloed, cited above (Note 7), p. 222.

11 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. 438, para. 44. Relevant civilian police-related activities mentioned in paragraph 44 are amongst others “police monitoring, including the aim of preventing police from carrying out such activities as discrimination based on religious and ethnic identity” and “police training, which could, inter alia, include [...] creating a police service with a multi-ethnic and/or multi-religious composition that can enjoy the confidence of the entire population”.

12 See Organization for Security and Co-operation in Europe, Ninth Meeting of the Ministerial Council, Bucharest, 3 and 4 December 2001, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2002*, Baden-Baden 2003, pp. 391-417, Decision No. 9, Police-Related Activities, pp. 413-416.

13 For example, in the Action Plan on Improving the Situation of Roma and Sinti in the OSCE Area, Section III on combating racism and discrimination includes recommended action by participating States (paras. 26-32) and by OSCE institutions and structures (paras. 33-35) on police issues. Under recommended action by OSCE institutions and structures, it is stated that “[t]he Strategic Police Matters Unit in the Secretariat and the ODIHR will assist participating States in developing programmes and confidence-building measures – such as community policing – to improve the relations between Roma and Sinti people and the police, particularly at the local level” (para. 33) and that “the ODIHR-CPRSI and the Strategic Police Matters Unit will, within their respective mandates, produce a compilation of police ‘best practices’ in the OSCE region with respect to policing and Roma and Sinti communities” (para. 34). Organization for Security and Co-operation in Europe, Eleventh Meeting of the Ministerial Council, 1 and 2 December 2003, Maastricht 2003, MC.DOC/1/03, 2 December 2003, *Action Plan on Improving the Situation of Roma and Sinti in the OSCE Area*, Annex to Decision No. 3/03, pp. 62-77.

14 Cf. Bloed, cited above (Note 7), p. 224.

15 For an overview of OSCE police-related activities in 2004, see Organization for Security and Co-operation in Europe, Office of the Secretary general, *Annual Report of the Secretary General of the OSCE on Police-Related Activities in 2004*, SEC.DOC/2/05, 29

As previously stated, the HCNM is aware that policing issues are one of the recurring concerns raised in his meetings with government and minority representatives. Through his work in several participating States, the HCNM has observed that the police can be both a contributor and a threat to stability in states that are home to a plurality of ethnic groups. In a number of states, for example, there are no institutional mechanisms to support interaction and co-operation between the police and persons belonging to national minorities. In combination with a lack of appropriate training for policing a multi-ethnic society, the frequently mono-ethnic make up of the police service and discriminatory practices have generated negative reactions among national minority communities in a number of situations, even becoming a catalyst for conflict. In other states, by contrast, the HCNM has seen how efforts to make the police more representative of the community it serves and to enhance communication between the police and national minority communities have not only strengthened inter-ethnic relations but have also increased operational effectiveness. He has become strongly convinced that there is a correlation between the quality of policing and the state of inter-ethnic relations.

In 2004, the HCNM commissioned a report from two expert policing consultants on “Priorities for Policing in Multi-Ethnic Kyrgyzstan”. The report summarizes the conclusions of a fact-finding exercise and sets out recommendations for a series of initiatives for multi-ethnic policing that can be incorporated into the OSCE’s wider Police Assistance Programme for police reform and community policing in Kyrgyzstan. Although the report focused on Kyrgyzstan, its needs analysis provided a valuable template for identifying the policing challenge in any transition state or potential ethnic-conflict situation. At the time, there did not appear to be any written guidance for police that addressed issues of policing in multi-ethnic societies with a particular focus on transitional states and post-conflict situations, and this was confirmed by the SPMU. The closest there was to such a document appeared to be the Rotterdam Charter “Policing for a Multi-Ethnic Society”,<sup>16</sup> but this concentrated on the situation in Western Europe and relations between police and minorities of migrant origin in urban areas. Furthermore, the Rotterdam Charter does not address prevention and management of conflicts as such. To fill this gap, the HCNM decided to proceed with the development of a set of general recommendations on policing in multi-ethnic societies.

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June 2005, at: [http://www.osce.org/documents/cio/2005/07/15504\\_en.pdf](http://www.osce.org/documents/cio/2005/07/15504_en.pdf). Annexed to this document is the ODIHR Annual Report on Police-Related Activities for 2004, March 2005. These reports were submitted to the Permanent Council in accordance with Decision 9, paragraph 6, of the Bucharest Ministerial Council Meeting, 4 December 2001.

16 *The 1996 Rotterdam Charter “Policing for a Multi-Ethnic Society”*, at: <http://www.rotterdamcharter.nl>. The charter is a legally non-binding document produced jointly by representatives of police, municipal authorities, and NGOs from across Europe.

### *Drafting Process*

The drafting formula on which all thematic recommendations are based is “experts draw up, Commissioner endorses”.<sup>17</sup> In consultation with the SPMU in the OSCE Secretariat, the HCNM appointed a consultant, Dr Robin Oakey,<sup>18</sup> to advise him and brought together a group of internationally recognized experts in the field of policing, consisting of a balanced mix of senior police officials, academics, representatives of relevant international organizations (OSCE institutions, Council of Europe, and EU), independent experts, and non-governmental actors, from across the OSCE region.<sup>19</sup> They were assisted by a number of legal and political advisers from the office of the HCNM. An initial meeting of the experts was convened by the HCNM in June 2005, followed by a second meeting in October and a concluding meeting in December. This process led to the elaboration of the recommendations on policing in multi-ethnic societies with Dr Robin Oakey acting as *rappor-teur*.

### *Political and Legal Foundation*

The Policing Recommendations, based on international experience and best practices, aim to provide states with practical guidance in developing policies and laws in accordance with international norms and standards. With regard to the legal foundation of the recommendations, a certain evolution can be made out, starting with the 1996 Hague Recommendations and leading to the 2006 Policing Recommendations. The first three sets of recommendations, on education, language rights, and effective participation in public life, are, in

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17 Krzysztof Drzewicki, The Lund Recommendations on the Effective Participation of National Minorities in Public Life – Five Years After and More Years Ahead, in: *International Journal on Minority and Group Rights* 2-3/2005, p. 126.

18 Independent consultant and Honorary Research Fellow at the Centre for Ethnic Minority Studies, Royal Holloway – University of London.

19 The independent experts were: Mr Steve Bennett, Director, Police Education and Development, OSCE Mission in Kosovo; Ms Ilze Brands Kehris, Director, Latvian Centre for Human Rights and Ethnic Studies; Dr Anastasia Crickley, Chairperson, European Monitoring Centre on Racism and Xenophobia; Mr Francesc Guillen, Chief of Staff, Deputy Minister of the Interior, Government of Catalunya, Spain; Professor Kristin Henrard, Department of International and Constitutional Law, University of Groningen; Dr Gordan Kalajdziev, Member Executive Board, Macedonian Helsinki Committee on Human Rights; Dr Jenő Kaltenbach, Parliamentary Commissioner of Hungary for National and Ethnic Minorities Rights; Mr Michael Kellett, Representative of the Network of Police and Human Rights Co-ordinators of the Council of Europe, Head of North West Regional Asset Recovery Team, United Kingdom; Dr Robin Oakey, Independent Consultant; Mr Stig Odorf, Police Unit, General Secretariat of the European Union, Council of the European Union; Mr Timothy Parsons, Hate Crimes Expert, OSCE ODIHR Tolerance and Non-Discrimination Programme; Mr Karl Pettersson, Police Affairs Officer, Strategic Police Matters Unit, OSCE Secretariat; Mr Ivan Shushkevich, Police Colonel (ret.), Deputy Director General, Military Chiefs Club of the Russian Federation; Mr Chris Taylor, Independent Consultant; Mr Rinus Visser, Police Academy of the Netherlands.

the light of international human rights law and jurisprudence, the direct elaboration and concretization into practical guidance for developing policies and law of generally worded minority rights standards contained in the 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension (Copenhagen Document), the Framework Convention on the Protection of National Minorities of the Council of Europe (FCNM) and the UN Declaration on Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UN Declaration on Minorities).

The Recommendations on Policing in Multi-Ethnic Societies reflect the pragmatic evolution of thematic recommendations towards operational guidelines. Policing is not dealt with explicitly in any of the international minority rights documents, but nevertheless the awareness of a need for practical written guidance on policing in multi-ethnic societies was established by the HCNM in the course of his work. As a result, it became necessary to interpret the international minority rights standards in the context of policing and conflict prevention. Several documents on fundamental human rights standards in policing exist, including the 1979 UN Code of Conduct for Law Enforcement Officials and the Council of Europe's European Code of Police Ethics of 2001. Other interesting initiatives are the above-mentioned 1996 Rotterdam Charter and the 1999 Budapest Recommendations on Police in Transition of the Hungarian Helsinki Committee.<sup>20</sup> The task of the selected experts elaborating the Policing Recommendations was to zoom in on these international standards from the point of view of the conflict prevention mandate of the HCNM and the role of ethnic and diversity factors in policing, based on international experience and examples of best practice and in the light of international minority rights standards. The combination of international human and minority rights lawyers and senior police officials in the group of experts made this possible. For example, the second section of the Recommendations (on recruitment and representation) reflects the right to effective participation of minorities in public life, as contained in paragraph 35 of the Copenhagen Document and Article 15 of the FCNM and interpreted in the opinions of the Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC) on the implementation of the FCNM. Recommendation 13, in section four on engaging with ethnic communities, addressing the ability of the police to communicate with minorities in minority languages, reflects the importance of the right to use the minority language in contact with the authorities, as contained in Article 10(2) of the FCNM. The enforcement of and respect for anti-discrimination law by the police, as provided by recommendation 19 in section five on operational practices, reflects the right to equality and the prohibition of non-discrimination as basic preconditions for minority protection, as contained in paragraph 31 of the Copenhagen Document, Article 4 of the FCNM, and Article 2(1) of the UN Declaration on Minorities.

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20 See the website of the Hungarian Helsinki Committee, <http://www.helsinki.hu>.

## *Overview of Policing Recommendations*

As explained above, the increasing social diversity of the OSCE participating States – both East and West of Vienna – places special demands on their public institutions. Because police organizations have the highest profile of all public agencies, they also need to be the first to adapt to the changing character of societies. If Europe is to respond adequately to these changes, then the police will have to change – both in organizational terms, and with regard to the way they operate.<sup>21</sup> The HCNM Recommendations on Policing in Multi-Ethnic Societies provide a detailed roadmap to support this process of change. The Recommendations are not a blueprint of a single model of policing to be applied throughout the 56 participating States of the OSCE, but rather offer guidance on one specific aspect of policing. They also have built-in flexibility thanks to the inclusion of various options on how to deal with new challenges posed by changing societies. While the Recommendations are rooted in existing international human and minority rights standards, they also promote policing practices that have proven successful in adapting traditional policing methods to the requirements of multi-ethnic societies throughout the OSCE. However, these “best practices” do not constitute instant solutions. In most cases they require considerable commitment and effort on the part of the state and will only prove fully effective over time and when implemented as part of a comprehensive strategy. Not that this should be taken to imply that the Recommendations can only be implemented *en masse*. Starting the process of reform by focusing on specific areas such as training may certainly be productive.

The 23 individual recommendations are grouped under six general headings, which, together, deal with all the essential components of policing in a multi-ethnic society. The remainder of this contribution consists of a discussion of the main elements of the Recommendations, which we shall consider section-by-section.

### *Section I – General Principles*

The first three recommendations address the general principles of policing in a multi-ethnic society and underline the importance of incorporating a policy on multi-ethnic policing into a wider framework that must include both a general policy on the integration in society of persons belonging to national minorities and a policy on the modernization of the police. In particular, if a policy on policing in a multi-ethnic society is to succeed, there needs to be a broad consensus on the integration of minorities within a multi-ethnic society

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21 See, also on other issues addressed in this article, Robin Oakley, *Policing in Multi-Ethnic Europe: the Agenda for Change*, Paper presented at the Conference “Intercultural Ireland: Identifying the Challenges for the Police Service”, Dublin Castle, 4-6 April 2000, at: <http://www.robinoakley.net>.

that recognizes the value of cultural, linguistic, and religious diversity and seeks to encourage participation of persons belonging to national minorities in public life, education, broadcasting, etc. On the basis of such a broad government policy, a mission statement can be drawn up for the police, reformulating its role from that of a law enforcement agency in the strict sense of the term to that of a “gatekeeper of equality, integration and cohesion in a rapidly changing society”.<sup>22</sup> Such a document, which should include a clear vision of the role of the police, must enjoy cross-party support and be co-ordinated and agreed upon with the hierarchy of the police organization. It is essential that senior police officials fully understand the importance of their role in promoting good inter-ethnic relations, both externally and internally, and are committed to implementing it. The key to achieving this is persuading police management that adapting the way their organization operates in a multi-ethnic environment will actually improve the police service internally and increase the external effectiveness of their work in terms of community awareness, contact, and public confidence.

The second aspect of a policy on multi-ethnic policing that should be linked to a wider framework involves the general standards of modern policing with which it has to comply. While the Recommendations focus on one particular aspect of good policing, they presuppose compliance with the general human rights framework. It is hard to imagine how good practices in multi-ethnic policing can be introduced in a police organization that otherwise ignores basic human rights and policing standards. Re-orienting a traditional police organization to policing in a multi-ethnic environment will therefore often be part of a police-development programme. The Recommendations emphasize the importance of general policing and human rights standards by referring to international standards such as the United Nations Code of Conduct for Law Enforcement Officials and the Council of Europe European Code of Police Ethics.

Given the duration, complexity, and sensitivity of re-orienting a police organization towards multi-ethnic policing methods, detailed planning is essential. Action plans are helpful in spelling out a step-by-step approach. It is equally important to regularly monitor the implementation of the reforms. This needs to be undertaken by an independent agency, such as a human rights institution or ombudsman. Although such independent scrutiny may at first be controversial, it should be understood that the police will ultimately benefit from neutral, open-minded, and constructive criticism.

### *Section II – Recruitment and Representation*

In the long term, recruiting police officers from minority communities is probably the most important aspect of implementing a policy on multi-ethnic policing. Like any public institution, the composition of the police needs to

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22 Rotterdam Charter, cited above (Note 15), paras. 4 and 7.

be broadly representative of the diversity of society as a whole. Equitable representation of minorities in the police is important for several reasons. First of all, it provides direct benefits to the police. Not only will police operations be enhanced by the inflow of information and the new skills and knowledge that minority recruits contribute, but the police will also benefit from better relations with minority groups. Communication between these groups and the police will be less fraught with difficulties, while, at the same time, minority groups will be able and inclined to take on more responsibility for the safety of their own communities when the police are more attentive to their particular concerns. Secondly, equitable representation of minorities in the police is also important at a more general level as a way of promoting integration of minorities through their participation in the public life of the state and its institutions. It is important to note, however, that persons belonging to national minorities recruited into the police force should not be employed as "minority police officers" to work only in areas inhabited predominantly by minorities or only on matters affecting minorities. Rather, they should be recruited to become generic professional police officers capable of working with all sections of society.

For all these reasons, increasing the representativeness of the police should be regarded as a major priority. However, this often proves to be quite a challenge as there may be several reasons for underrepresentation, including a lack of awareness of opportunities, a lack of educational qualifications, negative views caused by experience of abuse, and direct or indirect discrimination in recruitment processes. The police must therefore actively seek to recruit police officers from minority communities. This involves, first of all, setting (interim) targets that can realistically be achieved within a set time-frame. Then data needs to be collected on a regular basis to test whether these targets are being met. Simultaneously, special measures will need to be introduced to increase recruitment of underrepresented minorities. These special measures can include:

- a) Initiatives to increase information in minority communities about employment opportunities in the police, to create a positive image of the police, and to actively encourage interested persons to apply;
- b) Measures to address the lack of sufficient educational qualifications in potential applicants who are otherwise suitable and well motivated, for example, intensive, short courses designed to bring provisionally selected candidates up to the required entry level;
- c) Action to identify and address any possible causes of discrimination against minority applicants in the recruitment and selection process, including the provision of training in fair recruitment and selection for those responsible for these tasks and reviewing procedures to identify possible bias against minority candidates or other unnecessary disadvantage.

Selection criteria should also be reviewed to determine whether they are fully justifiable and ensure that they do not set unnecessary hurdles that indirectly disadvantage minorities. Some requirements, such as minimum height, that could prove an obstacle to applicants from particular minority communities need not be applied as a general requirement for all police recruits. This does not imply, however, that entry requirements should be altered or lowered just to accommodate applicants from minority communities. This would be counter-productive as persons belonging to ethnic majorities (and the media) are quick to suspect that standards are being lowered and that they themselves are now being discriminated against. In fact, those who are likely to be most concerned that standards not be lowered are police officers from minority backgrounds themselves: They will not want to be regarded as “second-class police officers”. Rather than lowering standards, educational and other support should be offered to promising candidates so that they can gain entry to the police organization on equal terms.

Successful recruitment of minority officers may not in itself be enough. Experience shows that unless minorities feel they are treated equally and with respect inside the organization and have the same opportunities to progress in their careers, they are likely to leave their jobs with the police. Positive measures, such as development training programmes and mentoring schemes, should therefore also be introduced to support and encourage police officers from minority backgrounds to progress in their careers. At the same time, it is important to ensure that there is a neutral working environment and that complaints of discrimination are examined and addressed effectively. Specific professional associations for police officers from minority backgrounds can offer both general and individual support and advice in these matters.

### *Section III – Training and Professional Development*

Training of police officers at all levels is vital for the successful implementation of a policy on multi-ethnic policing. Ideally, these issues should be included not only in special in-service courses, but also in the general training curriculum for all police officers, both in basic and more advanced police training. A training programme, which should be based on a needs assessment, is likely to include training on cultural and religious awareness, mediation and community relations skills, language training, and training in human rights, including rights of persons belonging to national minorities. Experience shows that it is essential that such training be practical and job-related. If the training is purely theoretical, it is likely to have little or no impact. The main emphasis in training, therefore, should not simply be on providing information, but rather on helping the police, in a practical way, to carry out their everyday work in multi-ethnic contexts in accordance with professional standards and international human rights norms. It can be especially difficult to address stereotypical and discriminatory views of minorities held by police

officers. In the initial stages of such training programmes, in particular, it is often more productive to focus on the behaviour that is required from the police. If this behaviour brings results and facilitates policing, attitudes will gradually change as well.

Similarly, it is important that the appropriate methods be used. Since formal lectures have limited value on their own, they need to be accompanied by interactive methods such as structured discussion and debate, as well as practical exercises and role-play, which simulate real policing tasks in multi-ethnic societies.

For the training to be effective, it is also important that representatives of minorities be involved in the planning, delivery, and evaluation of the training. This has several advantages. First, police learn first hand from minorities about relevant cultural and religious practices and about minority groups' perceptions of the police. Second, training also provides the opportunity for personal interaction, including discussions, exercises, and role-play. Finally, successful participation in police training by minorities can also build bridges and increase minority understanding of and confidence in the police.

#### *Section IV – Engaging with Communities*

Good communication with the public is vital for efficient policing in any democratic society, particularly if this policing is to be based on consent rather than on fear and repression. Establishing such communication is always difficult, but presents additional challenges in multi-ethnic societies. Not only can cultural, linguistic, and religious barriers hamper communication between minorities and the police, there may also be a strong sense of mistrust of the police among these groups as a result of past discrimination and oppression by the state. Overcoming these barriers in order to develop trust and confidence in the police will therefore require special efforts as well as a lot of patience on the part of the police.

The Recommendations offer a number of structural solutions for facilitating interaction and communication between police and minorities. They include, first of all, consultative bodies at national, regional, and local levels, such as community forums and community advisory boards, which can act as a source of information for the police on the local community and especially on minority concerns about the operation of law enforcement agencies. Other means of establishing and improving communication between police and minorities can include public meetings on the widest possible basis, "open days" specifically aimed at minorities, and community contact points at police stations. These contact points should provide information to members of minorities on legal procedures and opportunities to join the police, and should serve as a "public reception room" where such persons can raise issues of concern with the police. Finally, dedicated patrol officers could be

assigned responsibility for developing and maintaining contact with each national minority in the area, making regular patrols and visits, establishing personal contact and building trust with members of such communities on as broad a basis as possible.

In the case of linguistic minorities, the ability of the police to speak and understand the language concerned is, of course, a precondition for effective communication and co-operation. Recruitment of police officers from minorities is one way of addressing this issue. However, in many cases this will not suffice and qualified interpreters will be needed as well: for dealing with witnesses and suspects, for example.

One of the most effective ways of building structured and durable relations with minority communities is through co-operation with minority associations and NGOs, as these can help the police to develop channels of communication, identify and address problems, and advise on and take part in training and recruitment activities. Both sides may initially be cautious: The minorities may suspect that the police have a hidden agenda, such as extracting intelligence on criminal activities among national minorities. The police, on the other hand, may have little experience of working with civil society groups and may suspect these groups' motives, especially if they have been publicly critical of the police in the past. But the police and these minority associations can certainly find common ground so as to improve police-minority relations and to increase access to justice for minorities. On such a foundation, each party can help the other while respecting their different roles and working styles (including the continued right of NGOs to criticize the police on behalf of their communities when things are done wrong).

Finally, a key tool in building and developing trust in the police is the availability of effective and independent procedures for making and examining complaints about racist or unprofessional police behaviour. This demand is not limited to minority communities but it is especially important to them given their vulnerability and past negative experiences.

#### *Section V – Operational Practices*

Policing in a multi-ethnic society is not only about putting in place measures and mechanisms that specifically focus on minorities in fields such as recruitment, training, and communication methods. At least as important is the question of “mainstreaming”. In other words, how should the police carry out their day-to-day work in a multi-ethnic environment? First of all, this requires that the police enforce the law in an impartial and non-discriminatory manner, i.e. police powers are not applied disproportionately to persons belonging to national minorities. This so-called “over-policing”, in which racial or ethnic stereotypes, rather than individual behaviour, are used as a basis for making decisions about who is likely to be involved in criminal activity, often takes place when stopping or searching people in the streets, checking ve-

hicles, verifying identity documents, and using force in making arrests or searching premises. Direct or indirect discriminatory police conduct can be avoided by drawing up codes of conduct precisely setting out the behaviour that is expected of police officials when carrying out specific policing tasks. Ethnic monitoring of the outcomes of police operations is another way to identify whether or not police operations such as “stop and search” impact fairly and proportionately on different ethnic groups. Such monitoring should be carried out with due regard to confidentiality with the data anonymized and aggregated in statistical form, so as not to violate the rights of individuals.

At the other end of the spectrum, “under-policing” should also be avoided. This means that minorities should have equal access to police services and that their concerns should be addressed adequately and professionally. As minority communities are less likely to report crimes and may lack the experience or confidence in using existing procedures to ask for or complain about police assistance, the police first need to encourage minorities to turn to them when needed. Moreover, when persons belonging to minorities do report crimes, the police should ensure that these are properly investigated and that victims and witnesses are kept informed of the progress and outcome of cases. If persons belonging to national minorities believe they will be treated with respect and that their allegations will be taken seriously, they are more likely to report crimes and co-operate with the police, thus contributing to a safer environment.

Given the vulnerability of minorities to discrimination and xenophobic violence as well as their dependence on the police in addressing these problems, the police have a special responsibility to address incidents of discrimination and racism. Police powers should be used systematically and to the fullest extent to enforce anti-discrimination law. Indeed, under the European Convention on Human Rights, all police organizations have an obligation to investigate possible racist motives behind acts of violence.<sup>23</sup>

#### *Section VI – Prevention and Management of Conflict*

It is often supposed that the responsibility of the police in the area of ethnic conflict is limited to responding to actual incidents of overt conflict: to restore order and bring those in breach of the law to justice. This view does not take sufficient account of the importance of the role of police at earlier stages in the potential development of such conflict or in the de-escalation of tensions between ethnic groups once public order has been restored. The police share this responsibility with other groups and institutions such as central and local government, NGOs, and other civil society bodies. One key role of the

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23 See the judgment of the European Court of Human Rights (Grand Chamber) of 6 July 2005, *Nachova and others v. Bulgaria*, applications nos. 43577/98 and 43579/98, at: <http://www.echr.coe.int>.

police is to monitor the level of tension between ethnic groups on the basis of the number and gravity of specific incidents between persons belonging to different groups as well as intelligence derived from a variety of sources.

In addition, the police need to be trained and equipped to manage civil disturbances and incidents of inter-ethnic conflict in a professional and non-partisan manner, with the aim of de-escalating conflicts and of resolving them through mediation where possible and with minimal use of force. In doing so, they should always bear in mind that their actions are not separate from the dynamics of inter-ethnic relations. At least in the short or medium term, they may have a crucial effect on the development of inter-ethnic relations and the future of the state generally. For these reasons, their ability to maintain the confidence of all ethnic groups while managing conflicts and restoring public order is of fundamental importance.

### *Conclusion*

To conclude, the fifth set of thematic recommendations elaborated by internationally recognized independent experts under the auspices of the HCNM addresses issues of policing in multi-ethnic societies of high relevance both East and West of Vienna. The guidelines in this new reference document for law and policy makers in the OSCE participating States constitute a translation and implementation of OSCE commitments, such as the right to effective participation in public life, as contained in the 1990 Copenhagen Document. As such, they will, when implemented, have great potential to contribute to the realization of comprehensive security in the OSCE area.

All OSCE participating States are invited to test the usefulness of this document in practice by disseminating it, incorporating it in their policing policies, and providing training on it to police officers. The Office of the HCNM is ready to provide assistance in implementing these recommendations.

## Overview of the OSCE's Work in Support of the Global Effort against Terrorism

### *Introduction*

The OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century<sup>1</sup> defines terrorism as “one of the most important causes of instability in the current security environment”. The Strategy points out that terrorism “seeks to undermine the very values that unite the [OSCE] participating States” and that it “will remain a key challenge to peace and stability and to State power, particularly through its ability to use asymmetric methods to bypass traditional security and defence systems”. Further, the Strategy highlights the need to address the threat of terrorism and its manifestations as well as conditions that may foster or sustain it as “a main priority” for the organization.

Over the years, the OSCE has developed a framework for comprehensive action to address this threat and has been actively contributing to the global effort to fight terrorism by helping national authorities develop their counter-terrorism capacities and capabilities and by adding value to activities undertaken by other international bodies and organizations.

### *Supporting the UN*

The most fundamental premise for the OSCE's counter-terrorism work is that the OSCE is a regional arrangement under Chapter VIII of the United Nations Charter. As such, the OSCE recognizes that UN conventions and protocols and UN Security Council resolutions (UNSCR) constitute – as the Strategy defines them – “the legal framework for combating terrorism” and is committed to fully implementing them. Further, it recognizes that the UN, and particularly the Counter-Terrorism Committee of the UN Security Council (CTC), plays the leading role in all counter-terrorism matters from a global perspective.

For this reason, the OSCE has striven to maintain very close and regular contacts with the CTC and its Executive Directorate (CTED) in order to harmonize its activities with the objectives, priorities, and directions as defined by the CTC. CTC Chairs have regularly addressed the OSCE Permanent

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1 Organization for Security and Co-operation in Europe, Eleventh Meeting of the Ministerial Council, 1 and 2 December 2003, Maastricht 2003, MC.DOC/1/03, 2 December 2003, *OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century*, pp. 1-10.

Council and have held consultations with the OSCE Secretary General and the Secretariat. In October 2005, the OSCE Secretary General, Marc Perrin de Brichambaut, addressed the CTC, outlining the Organization's counter-terrorism activities, which met with the warm approval of the Committee. In addition, one of the first visits abroad made by CTC Executive Director, Ambassador Javier Rupérez, was to Vienna, where he addressed the Permanent Council and held consultations with the Secretariat.

The OSCE's efforts to support the UN in the global fight against terrorism are most clearly reflected in the work on the ratification and implementation of the UN conventions and protocols relating to terrorism, the so-called universal anti-terrorism instruments (UATIs), one of the major requirements of UNSCR 1373. In its Bucharest Plan of Action, adopted by the OSCE Ministerial Council in December 2001, the participating States made a commitment to ratify all twelve UATIs as soon as possible. Following up on this commitment and in close co-operation with another UN body, the UN Office on Drugs and Crime (UNODC), as well as the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the OSCE Action against Terrorism Unit (ATU) has organized a number of regional and national workshops to promote the ratification and legislative implementation of the twelve UATIs.

The results speak for themselves – the ratification rate has gone from 65 per cent in September 2001 to 93 per cent currently, with 43 OSCE participating States being Party to all twelve instruments. Most notably, the ratification rate of the Convention for the Suppression of the Financing of Terrorism has gone from four per cent (or two participating States) in September 2001 to 93 per cent (50 participating States) currently. The progress in ratification of the UATIs now allows, again in collaboration with UNODC, a focus on their legislative implementation – i.e. the reflection of the provisions of these instruments in the national legislation of the participating States. After the adoption by the UN General Assembly in 2005 of the 13th universal instrument against terrorism – the International Convention for the Suppression of Acts of Nuclear Terrorism – OSCE participating States pledged to make every effort to sign this convention on the day of its opening for signature. It was a very positive sign that 46 OSCE participating States fulfilled this pledge and signed the convention during the UN summit in September 2005 in New York.

Another example is the implementation of UNSCR 1566, which tackles the issue of enhancing legal co-operation among states in bringing terrorists to justice, based on the principle of "extradite or prosecute". On 15 April 2005, at the initiative of the CTC and in co-operation with UNODC, the OSCE organized an experts' workshop on enhancing legal co-operation in criminal matters related to terrorism. The workshop discussed existing problems in this area and ways to overcome them. Examples of best practices were brought forward and ways to strengthen co-operation, such as establishing judicial liaison offices, permitting foreign investigation teams to work

on their national territory, and the creation of joint investigation teams were outlined. The success of this event prompted participating States to adopt a special decision at the Ljubljana Ministerial Council, tasking the OSCE to work further on this issue, including through promotion of UNODC tools and mechanisms and the organization of training for national authorities. This decision was implemented by December 2005 with a three-day training course for 77 prosecutors, judges, and judicial officials from Serbia and Montenegro, organized by the ATU in co-operation with UNODC and the Council of Europe and with the participation of ODIHR. Similar events are planned for 2006 and 2007.

The OSCE has also been supporting CTED's visits to OSCE participating States. So far, there have been two such visits in the OSCE area: to Albania in June 2005 and to the Former Yugoslav Republic of Macedonia in March 2006. The purpose of OSCE participation, apart from helping CTED to build up a more complete picture of country's need for counter-terrorism capacity-building assistance, is to avoid duplication of efforts in providing such assistance and to identify additional areas for counter-terrorism co-operation between the OSCE and the participating State visited. CTED visiting teams usually include experts from different international organizations who are knowledgeable in various fields relevant to the implementation of UNSCR 1373. During the visit to the Former Yugoslav Republic of Macedonia, OSCE participation had an additional value as the Organization provided the only border-security expert that the team possessed and a background paper highlighting relevant human dimension issues.

The OSCE's efforts to support the UN are primarily, but not exclusively, focused on the CTC. The Organization also contributes to other activities in the fight against terrorism. For instance, the OSCE is very much concerned with the nuclear, chemical, biological, and radioactive threat and is considering ways to contribute to the implementation of UNSCR 1540 on the non-proliferation of weapons of mass destruction, adopted in 2004. Considerable support is also provided to the UNSCR 1267 Committee – the Al-Qaida and Taliban Sanctions Committee – and its Monitoring Team.

#### *Reinforcing Implementation of International Standards*

The political weight of the OSCE plays an important role in supporting the activities of a number of specialized global and international organizations. The OSCE as a political organization with 56 participating States, eleven partners for co-operation and 18 field presences has significant resources to contribute. For instance, the OSCE can reinforce the implementation of specific international standards, norms and practices developed or adopted by these organizations. In most cases, such standards are just recommendations.

The OSCE's political support and commitments made by its participating States reinforce the case for their application in practice.

There are already a number of examples of effective OSCE support in this respect. A significant one is the collaboration with the International Civil Aviation Organization (ICAO) on travel document security. The ICAO has the lead in setting standards for international travel documents to make it more difficult for passports to be counterfeited or altered by criminals and terrorists. Working closely with the ICAO at the OSCE Maastricht Ministerial Council in December 2003, the OSCE participating States not only endorsed these ICAO standards but agreed to specific deadlines for implementation. The OSCE is now following up, providing technical assistance to individual countries requesting help with implementing those standards as well as upgrading their passports.

Another example of this role: In July 2005, the OSCE Permanent Council adopted a decision to support the International Atomic Energy Agency's (IAEA) Code of Conduct on the Safety and Security of Radioactive Sources. This is aimed at improving the control and accountability of such sources, so as to reduce the possibility of their falling into the hands of terrorists to be used as "dirty bombs". Of the 56 participating States, 15 States had not yet signed on to the IAEA Code. This decision encourages them to do so under the umbrella of the OSCE.

A similar course of action has been taken in the area of container security. In December 2004, the Sofia Ministerial Council took a decision tasking the OSCE with exploring the possibilities of contributing to the improvement of container security in order to prevent the use of containers for terrorist purposes. In February 2005, the OSCE organized a technical experts' workshop that drew 170 participants from 60 participating and partner States and twelve international organizations to exchange views and best practices on this subject. On the basis of the workshop and subsequent consultations with the relevant international organizations, the OSCE Ljubljana Ministerial Council adopted another decision in December 2005, containing a commitment to implement the global standards for supply chain security and facilitation approved by the World Customs Organization (WCO) in June 2005.

The OSCE also focuses on the implementation of international human rights standards. Events such as the Copenhagen Workshop on Protecting Human Rights while Countering Terrorism in March 2004 or the Supplementary Human Dimension Meeting on Protecting Human Rights in the Fight against Terrorism in July 2005 provided experts with the opportunity to discuss issues relating to the implementation of the international human rights framework in the context of counter-terrorism.

### *Facilitating International Capacity-Building Assistance*

In addition to this political reinforcement role, the OSCE can support international and national capacity building and other means of addressing current and emerging terrorist threats by disseminating lessons learned, best practices, and model legislation, and providing technical assistance to participating States. The specialized international organizations can offer technical expertise and capacity-building support while the OSCE can provide a unique forum for information dissemination and follow-up. There is no danger of duplicating or usurping the roles of the other organizations – they are the experts and the OSCE does not want to compete with them. What we are able to offer them is help in bringing their message and expertise to the relevant national authorities.

There are numerous concrete examples in this area, too. In collaboration with the ICAO, in March 2004, the ATU organized an OSCE-wide workshop in Vienna covering key travel-document concerns, including adherence to international standards, strengthened handling and issuing procedures, and emerging technologies such as biometrics. One hundred and forty-five experts from 47 OSCE capitals and international organizations participated in this conclave. In fact the ICAO was so impressed by the success of this joint endeavor that it was decided to replicate it in other regions.

In addition, over the last year and a half, the ATU has conducted five sub-regional workshops to combat the use of fraudulent or counterfeit travel documents. These workshops brought together over 100 national law enforcement officials from 30 countries with relevant ICAO experts, providing a forum for the sharing of forensic and other practical information and enhancing regional and cross-border co-operation related to the prevention of travel document abuse. In 2005, we started a new series of sub-regional workshops, which focus on the ICAO minimum security standards for handling and issuing passports. The first one, held in Sofia in June 2005, brought together experts from eight countries from South-eastern Europe. The second, held in December in Almaty, involved experts from the Central Asian participating States and Afghanistan.

There are additional possibilities in this area too. After the workshop on container security, both the International Maritime Organization (IMO) and the International Labour Organisation (ILO) offered to team up with the OSCE for training workshops in the OSCE region, to be carried out in close co-operation with the WCO. We are also in contact with Interpol and the International Organization for Migration (IOM) to determine the best possible ways for the OSCE to facilitate assistance to interested participating States in linking up to and making use of the Interpol's Automated Search Facility/Stolen Travel Document Database.

### *Combating Terrorist Financing and Money Laundering*

In OSCE participating States, measures to combat money laundering increasingly play a key role in efforts to promote economic development, private enterprise, and the rule of law. Money laundering is also an important means of financing terrorism. The UN Political Declaration against Money Laundering (1998) recommended that states adopt, by 2003, national money-laundering legislation in accordance with relevant provisions of the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, as well as other UN measures. The UN International Convention for the Suppression of the Financing of Terrorism (1999) recognizes that financial operations are at the heart of terrorist activity. The Convention calls for efforts to identify, detect, and freeze or seize any funds used or allocated for the purpose of committing a terrorist act.

In 2002, as a direct implementation of the Programme of Action endorsed at the December 2001 “Bishkek International Conference on Enhancing Security and Stability in Central Asia: Strengthening Comprehensive Efforts to Counter Terrorism”, the UNODC Global Programme against Money Laundering (GPML) and the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA) began co-operating on activities aimed at combating money laundering and suppressing the financing of terrorism within the OSCE region.

Recent OSCE Ministerial Meetings have encouraged the OCEEA to continue pursuing these programmes in co-operation and co-ordination with UNODC and to support OSCE participating States’ efforts to strengthen their ability to prevent and suppress the financing of terrorism and organized crime. This was reiterated in the OSCE Strategy Document for the Economic and Environmental Dimension that was adopted in Maastricht in December 2003.

The first joint activity between the two organizations was a working session on issues relating to the combating of money laundering within the framework of the Tenth OSCE Economic Forum in Prague in 2002. On 11 July 2002, as a follow-up to this event, the then 55 OSCE participating States agreed, with Decision No. 487 of the OSCE Permanent Council, to complete the self-assessment questionnaire of the Financial Action Task Force.

Furthermore, in 2004, at the initiative of the Russian Federation, the Permanent Council adopted Decision No. 617 on Further Measures to Suppress Terrorist Financing. As a result, in November 2005, the OCEEA, together with other OSCE units, UNODC, and the US State Department, organized a high-level conference on combating terrorist financing, which included a session on the role played by charities in the financing of terrorism.

In a co-operative effort, the OCEEA and UNODC have jointly developed national workshops on combating money laundering and suppressing the financing of terrorism. The first phase of the workshops involves an exer-

cise in awareness-raising and needs-assessment, with a view to enhancing capacities. The second phase consists of legal framework development and implementation assistance, which includes a mentorship programme, capacity-building, and specific training elements.

The workshops are organized at the request of the host government and conducted jointly by the OCEEA, UNODC, the OSCE field missions, and the host country. They bring together international and local experts, as well as representatives from the respective ministerial, judicial, and financial government bodies. So far, eight first phase workshops have been implemented with the governments of Albania, Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Romania, Tajikistan, and Uzbekistan. The workshops have resulted in a number of concrete recommendations which have, in turn, led to the drafting of relevant legislation.

Round table meetings as a follow-up to the workshops are currently being organized in a number of countries. They are designed to provide assistance in creating mechanisms to combat money laundering. Workshops aimed at streamlining the functioning of the national Financial Intelligence Units (FIUs) were held in Kazakhstan and Kyrgyzstan in April 2005, in Armenia and Georgia in May 2005, and in Kazakhstan, Turkmenistan, and Uzbekistan in October and December 2005. Interest in arranging workshops has also been expressed by the governments of Belarus, Serbia, and Montenegro. In June 2005, the OCEEA, in co-operation with UNODC, organized a regional workshop on the fight against money laundering for financial sector supervisors in Vienna aimed at countries with advanced institutional frameworks. In November 2005, the OCEEA, in co-operation with UNODC, NATO, and the US State Department, organized a high-level conference on combating terrorist financing in Vienna.

### *Protecting Human Rights*

The OSCE has a focus on co-operative security based on democracy, respect for human rights and fundamental freedoms, the rule of law, a market economy, and social justice. Due to the OSCE's comprehensive and multidimensional approach to security threats, the human rights aspect is truly an integral part of all OSCE anti-terrorism commitments and action. Terrorism impairs the enjoyment of human rights and is a threat to fundamental freedoms. Consequently, OSCE participating States have pledged on several occasions to promote counter-terrorism measures – while fully respecting the rule of law and their obligations under international human rights, refugee, and humanitarian law. Clear commitments to this effect are expressed, for example, in the Bucharest Plan of Action for Combating Terrorism (December 2001), the OSCE Charter on Preventing and Combating Terrorism (December

2002), and the Sofia Ministerial Statement on Preventing and Combating Terrorism (December 2004).

Of special relevance is the contribution of ODIHR to OSCE anti-terrorism activities in connection with human rights. Most ODIHR activities in the field of human rights and anti-terrorism are conducted and implemented as part of the current Human Rights and Anti-Terrorism Programme. This programme operates OSCE-wide projects as well as projects addressing specific national needs and challenges. However, all programme components aim to strengthen compliance with international human rights standards and OSCE commitments relating to the fight against terrorism and violent extremism.

The implementation of a Training Module on Human Rights and Terrorism is a prominent element of the programme. As a first step, the training module provides practical tools to help senior policy makers and public officials ensure respect for human rights and meet the requirements of international human rights standards while countering terrorism. In addition to the training module, the ODIHR is developing a manual on the protection of human rights in the context of the struggle against terrorism. These activities are carried out in consultation with other parts of the OSCE, such as the ATU and the Representative on Freedom of the Media, as well as with other international organizations working on counter-terrorism in the region. This ensures that they are relevant, comprehensive, and complementary to other work carried out in the OSCE region.

Another significant part of ODIHR's programme consists in offering, at the request of participating States, technical assistance or advice on the implementation of the UATIs and relevant UNSC resolutions and on the drafting of national anti-terrorist legislation with a view to ensuring the conformity of these legislative tools with international human rights law.

The ODIHR programme also focuses strongly on the protection of victims of terrorism. A specific project aims to facilitate and assist national governments and civil society in their efforts to design and implement an effective and comprehensive protection structure for victims of terrorism. To this end, an expert level seminar was organized in Spain in March 2006 to explore practice and policy across the OSCE region relating to solidarity with the victims of terrorism.

Besides these long-range efforts, ODIHR has organized a series of events on issues such as violent extremism that are relevant from both a human rights and a counter-terrorism perspective. Moreover, ODIHR has produced a number of background papers on human rights issues of key concern in the context of counter-terrorism, such as extradition, rendition, and the use of diplomatic assurances in criminal cases related to terrorism.

These few examples underscore the indispensable link between respect for human rights and the implementation of any effective counter-terrorist strategy. In the development of its approach to counter-terrorism, the OSCE

remains very mindful of the fact that the obligation to protect human rights should not be seen as a barrier to effective co-operation in guaranteeing security, but rather as a way of promoting a form of security and international co-operation that allows for effective prosecution and effective work to prevent terrorism.

### *Identifying Gaps*

The OSCE is also instrumental in identifying areas where the international community is not doing enough to address certain terrorist threats, and in focusing the attention on these gaps. For instance, in 2003, the ATU undertook an enormous effort to research international and bilateral assistance provided to OSCE participating States in the area of counter-terrorism. The result of this research is an inventory of all anti-terrorism projects (both OSCE and non-OSCE) related to UNSCR 1373 in the OSCE region. The survey has served as an invaluable aid in avoiding overlap and identifying areas where more attention might be needed.

This inventory showed that, on the specific threat that shoulder-fired missiles (MANPADS) pose to civil aviation, a significant international effort was being dedicated to improving export controls and stockpile security and management to prevent them from falling into the hands of terrorists. However, not enough was being done to address the issue of better protecting civilian aircraft from such missiles as were already in the hands of terrorists.

That is why, in 2004, the ATU and the ICAO hosted an unprecedented closed-door, law-enforcement-sensitive international workshop on the issue, which was attended by civil aviation security and counter-terrorism experts from NATO, the Collective Security Treaty Organization (CSTO), the European Commission, and almost all OSCE participating States, most sending relevant national officials. This workshop showed that there are some simple and inexpensive measures that airport security authorities can take to reduce the possibility of an attack against a civilian airliner occurring. We have been glad to receive feedback from several participating States, informing us that they were acting on the information provided at the workshop.

Another growing threat that did not seem to be getting enough attention from the international community is the spread of suicide terrorism. This is not a new phenomenon, but it has been expanding and spreading to regions where it had previously been unknown. Between 1994 and 1999, most suicide attacks were committed in Sri Lanka and Israel, but in recent years we have seen the phenomenon occurring in a number of countries in the OSCE area: the US, the Russian Federation, Turkey, and Uzbekistan. This is why, on 20 May 2005, the ATU organized a closed-door law-enforcement-sensitive workshop on suicide terrorism. There, experts in combating terrorism and the psychology of suicide terrorism, not just from the OSCE area,

but from all over the world, including Sri Lanka and Israel, shared with the national participants their insights about this phenomenon and ways to counter or mitigate it, so that national authorities can be better prepared to deal with this threat.

Similarly, terrorist attacks in London (July 2005), Madrid (March 2004) and Moscow (February 2004) illustrated how critically fragile and vulnerable urban transport systems (metro, bus, and train) remain. Terrorists seem to have made mass transit their soft target of choice. Urban transportation systems move millions of passengers daily, which makes them both difficult to secure and attractive as terrorist targets. They are inherently open environments, as they are designed to move a high volume of passengers to their destinations quickly. The consequences of a future attack could be devastating if more powerful devices or CBRN (chemical, biological, radiological, and nuclear) materials were deployed. At the same time, international efforts in the area of transport security seemed to focus on international aspects of transport and travel (container security, aviation security/MANPADS, maritime security, and travel document security), while responsibility for urban transport security throughout the OSCE region was left to national or municipal authorities, working to widely varying standards of security. To address this vulnerability, the ATU conceived of a workshop, which was held in early 2006 in Vienna. This workshop provided a platform for experts and practitioners (counter-terrorism officials, security experts, as well as public and private transport operators) from participating States to address this vulnerability, to share experiences and good practices as well as information about existing and potential new measures and methods that can be used to reduce the possibility of attacks targeting urban transport.

#### *Interacting with Other Regional Organizations*

Regular contacts with other regional organizations are necessary and valuable, as each can learn from the other's experience. An example of such sharing is the establishment of an OSCE Counter-Terrorism Network (CTN), which is based on a similar network linking the OAS states. The CTN, in operation since February 2004, facilitates information flow between delegations of participating States, counter-terrorism officials in capitals, and the OSCE Secretariat. The ATU has published monthly CTN Newsletters since February. In addition to working directly with the network, OSCE participating State delegations have provided the CTN with national points of contact in 44 OSCE capitals. The CTN also includes ten of the OSCE's partner States, 18 international organizations, and all OSCE institutions and field operations.

Positive exchanges of this kind have taken place with a number of regional partners. The ATU has had substantive counter-terrorism discussions with the African Union, the Asia-Europe Meeting (ASEM), OAS, the CIS

Anti-Terrorism Centre, the CSTO, the Council of Europe, the EU, NATO, and others. These bilateral consultations will continue and expand as we seek to strengthen a global network against terrorism. The success of the OSCE's outreach and collaboration with other international organizations was recognized by the CTC, which agreed that the OSCE, in co-operation with UNODC, Asia Europe Meeting the Third Special Meeting of the Counter-Terrorism Committee with International, Regional and Sub-regional Organizations on 11-12 March 2004 in Vienna.

More importantly, the Fourth Special Meeting of the CTC with International, Regional and Sub-Regional Organizations, held in January 2005 in Almaty, showed that the CTC considers the OSCE, together with the OAS, to be setting a good example for other regions of counter-terrorism efforts and active collaboration with other organizations.

### *Conclusion*

It is obvious that the OSCE can, does, and should continue to bring added value to the counter-terrorism work of other international organizations and bodies. This work reflects the current security concerns of its participating States and is further proof of the organization's ability to be flexible and develop its agenda to take such concerns into account. As these concerns evolve and take shape, so does the Organization's anti-terrorism agenda. New issues are on the table for consideration by the participating States: public-private partnership in the fight against terrorism, countering incitement to terrorism, recruitment, and radicalization. The extent to which the OSCE will remain involved in these and other complex problems will be determined by the political will of its participating States, and will, in turn, determine the continued relevance of the Organization to their interests and needs.



### III. Organizational Aspects



## OSCE Institutions and Structures



## The OSCE Parliamentary Assembly – Driving Reform<sup>1</sup>

### Introduction

In our “globalized” societies, calling for the democratization of multilateral organizations – above all via control by national parliaments, but also, for instance, by means of referenda – is one aspect of the transition from foreign policy to global governance. There are still those who will continue to defend foreign policy’s claim to be the last bastion of executive exclusivity, but the reality of parliamentary governments, in particular, which are heavily oriented towards consensus between the executive and their parliamentary scrutinizers, has weakened this bastion. As a result, it has become possible to pursue parliamentary activities that have been recognized as useful, particularly under the heading of “parliamentary diplomacy”. However, the limits of this openness are soon reached when parliamentarians seek to go beyond merely debating policy with their colleagues from other countries and demand a role in making policy or a right of oversight.

The Parliamentary Assembly of the OSCE (OSCE PA) has its roots in both governmental acts and parliamentary initiatives. When work began to transform the Conference on Security and Co-operation in Europe into an international organization, the euphoric drive towards democratization of the immediate post-Cold War period was powerful enough to ensure that the Charter of Paris, signed by the Heads of State or Government in 1990, explicitly provided for the Organization to have a parliamentary dimension, preferably in the form of a parliamentary assembly. The national parliaments did not need a second opportunity. The OSCE PA held its first Annual Session in 1992. As the story of these early days has already been covered in depth in this publication by Michael Fuchs and Angelika Pendzich-von Winter, I do not wish to treat of it any further here.<sup>2</sup> The later development of the PA, which I shall deal with from 1999 on, is, nonetheless, an expression of this same parliamentary momentum.

The statutes of the PA are dominated by the focus on parliamentary diplomacy; they do not contain genuine control mechanisms. The only two rudimentary control instances that do exist are, first, the willingness of the OSCE Chairman-in-Office and senior OSCE officials to appear before the

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<sup>1</sup> The opinions expressed in this contribution are solely the personal views of the author.

<sup>2</sup> Michael Fuchs/Angelika Pendzich-von Winter, The OSCE Parliamentary Assembly, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1995/1996*, Baden-Baden 1996, pp. 355-364. Cf. also R. Spencer Oliver, The OSCE Parliamentary Assembly, in: *Helsinki Monitor* 1/1996, pp. 42-57, and Beat Habegger, *Parlamentarismus in der internationalen Politik* [Parliamentarianism in International Politics], Baden-Baden 2005.

Annual Sessions of the PA and answer questions and, second, the agreement that the results of the Annual Session will be sent to the OSCE leadership.<sup>3</sup> This reflects the legal view that the task of executive control continues to be exercised by national parliaments with regard to their governments. It is also a consequence of the fact that the composition of the Assembly, which consists of delegates from national parliaments, does not necessarily ensure that the delegations are actually representative of the parliaments they “represent”. Some national parliaments are therefore hesitant to grant real powers of control to assemblies of this kind.

Members of interparliamentary assemblies thus possess first and foremost an intermediary function. They pass information between the international and national levels, acting, where necessary, as “translators” for colleagues that might be less familiar with the political processes taking place so that, jointly, they can be more effective in scrutinizing their national governments. In an organization like the OSCE, whose participating States are at very different stages in the development of parliamentary democracy, the international level is often the only opportunity for some parliamentarians to receive important information that enables them to exercise their control function.

However, merely playing their intermediary role effectively requires the parliamentarians to do more than meet occasionally and debate political topics. They also need to establish constructive two-way relations with governments and, above all, with the executives of the organizations whose parliamentary counterpart they are, and to process the results of this in appropriate structures of their own. More than a few go one step further and – driven by their sense of mission as parliamentarians – call for powers of control similar to or even more extensive than those they enjoy in their national parliaments. This follows from the insight that the increasing delegation of tasks to the international level impedes a crucial precondition of parliamentary control, namely transparency. At the international level, where most decisions are based on compromises negotiated outside formal meetings and where each government can pretend at any time that, given the threat of a veto from another participating State, its room to manoeuvre is curtailed, the lack of transparency is accompanied by a loss of accountability. However, in order to raise transparency, and thus to increase the accountability of national governments, there are other means than a transfer of the classical model of the tripartite division of state power to the international level. Instead of the model of “confrontation” between parliament and government with rights of control and initiative in both directions, it is also conceivable, for instance, that legislature and executive co-operate on the decision-making process, thus raising its transparency to the parliamentarians.

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3 Cf. Fuchs/Pendzich-von Winter, cited above (Note 2), p. 363.

This has always been a bone of contention between the PA and the OSCE,<sup>4</sup> but the debate has been particularly heated since 1999. The battle cry for “more transparency and accountability” forms the background of the insistent claims made by the PA for OSCE reform. Persistent pressure has enabled the PA to get a foot in the door of the OSCE executive during this time. This has in part only been possible, however, because the basic demand for reform corresponds to the – differently motivated – demands made by Russia and her neighbours, as well as similar considerations made by non-NATO Western states. Consequently, the two issues of “reform” and “co-operation” frequently dominated the agenda of the PA in the period under discussion.

In the following, I shall look more closely at these developments, while also touching upon the contents of some of the issues the PA has addressed in recent years. (More is not possible in the available space.) First of all, however, I shall outline structural developments in the PA, which illustrate what has become of the “once frail bloom”.<sup>5</sup>

### *Changes in Structure and Working Methods*

On the back of the parliamentary momentum, the PA is developing its originally simple structure at a quite breathtaking pace. At the same time, there have been attempts to define the Assembly in political and legal terms. The OSCE Summit in Istanbul in 1999 described the PA as one of the OSCE’s most important institutions and called upon it to continue to expand its activities. The recently adopted OSCE Rules of Procedure describe the PA as an autonomous body of the OSCE that has its own budget and co-operates closely with other OSCE structures. The rights of the PA to participate in the work of the bodies of the OSCE executive are mentioned explicitly in the relevant sections of the Rules. The PA and its staff have been granted diplomatic immunity and privileges in Denmark. In Austria, the OSCE PA Liaison Office and its staff were granted the legal status of a diplomatic mission.<sup>6</sup>

Structural changes have been accompanied by repeated amendments to the OSCE PA’s Rules of Procedure. This is remarkable simply for the fact that such changes require the virtually unanimous support of the Standing Committee (“consensus-minus-one”). A further revision has taken place in recent months. Several requests for amendment had already been presented at

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4 Cf. *ibid.*, p. 356.

5 In preparing this paper, the records of the German *Bundestag* (*Bundestagsdrucksachen*), which contain the reports of the Annual Sessions of the PA and its resolutions, have been of invaluable assistance, cf. at: <http://dip.bundestag.de/parfors/parfors.htm>, as has the website of the PA itself, at: <http://www.oscepa.dk>, which contains – in English, and partly in other official OSCE languages – not only summaries of developments and a record of activities, published as the “News from Copenhagen”, but also allows visitors to access a full range of relevant documents and resolutions.

6 Cf. para. 3, sections 1 and 2 of the Federal Law on the Legal Status of OSCE Institutions in Austria, *österreichisches Bundesgesetzblatt (BGBl.) No. 511/1993*.

the 2005 Annual Session in Washington; the commission appointed to consider them delivered its recommendations at the 2006 Winter Meeting. At the 2006 Annual Session in Brussels, the issue was again postponed until the Autumn Meeting in Malta, where they were finally adopted, with the exception of a revision of Rule 38 on the PA Secretary General. Among the new Rules adopted is one that grants PA delegations the right to put forward written questions to the Chairman-in-Office.

As described in detail by Fuchs and Pendzich-von Winter, the original structure and working methods as of the PA had the following form:<sup>7</sup> Besides the plenary session and three General Committees, whose areas of business accord with the three Helsinki “baskets”, the PA also possesses a President (currently Göran Lennmarker of Sweden), a Bureau (President, nine Vice-Presidents, Treasurer, President Emeritus), and the Standing Committee, in which all delegations are represented and have a single vote. The 2006 revision of the Rules has replaced the Bureau entirely with what had been the Expanded Bureau. The Bureau thus now also includes the officers of the three General Committees. Administrative support is provided by the Copenhagen-based Secretariat. While the Committees and the plenary session make their decisions (mostly in the form of resolutions) by a simple majority, the Standing Committee, which is the PA’s main management organ, but also capable of making policy decisions, is governed by the “consensus-minus-one” principle, i.e. quasi-unanimity. The Bureau has a largely advisory function. The President is elected for a year and can be confirmed in office for a further year at most. He then becomes President Emeritus for the length of his successor’s term, and has a position in the Bureau with the right to advise. Vice-Presidents serve for three years and may be re-elected once.

#### *The PA Secretary General*

The executive heart of the PA is the Secretary General, who – like all other staff of the International Secretariat – is an international civil servant. Ever since the PA was established, the position has been occupied by R. Spencer Oliver, a former senior staff member of the US Congress who also took part in the Helsinki Process as a member of many US delegations. The Secretary General is initially appointed by the Standing Committee for five years and can be reappointed by a majority vote for a further five years. This last occurred at the 2005 Annual Session in Washington. There are no further limits to the term of office of the Secretary General, nor is there an age limit. In 2005, the Standing Committee considered the question of when the position can be considered vacant and thus when new applications should be possible. With a large majority, it took the view that the position will only be vacant when the holder has left office, died, or the Standing Committee has refused to renew his or her tenure. The recently discussed changes in the Rules of

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7 Fuchs/Pendzich-von Winter, cited above (Note 2), pp. 358-359.

Procedure, which failed to achieve the required consensus-minus-one, had aimed to introduce a limit to the overall term of office – albeit with a clause that allows for exceptions. While the legally binding decision of the Standing Committee in Washington rules out rotation in terms of geography, political alignment, or similar criteria, it has the benefits of ensuring continuity and enabling the Secretary General to act largely free of influence from individual and group interests.

A strong secretariat is particularly important for an autonomous parliamentary assembly. Indeed, contrary to common misconceptions, the office of the Secretary General of an autonomous interparliamentary assembly such as the NATO PA, the Inter-Parliamentary Union (IPU), or the OSCE PA is Janus-faced. On the one hand, he or she is of course the senior parliamentary servant, as is the case in national parliaments. At the same time, however, given the organizational nature of these assemblies, which distinguishes them from statutory parliaments, and the fact that neither their presidents nor the entire leadership apparatus can perform their duties full time – after all, they remain in the first instance busy national lawmakers – the existence of a genuine executive is indispensable. In all three of the assemblies mentioned, a powerful Secretary General ensures that the institution remains effective.

The dual function described here is also evident in the representation of the Assembly to the outside world. While the President is the public face and supreme representative of the entire Assembly, the Secretary General, as the head of the Assembly's executive, is equally the head and chief representative of an institution – albeit subject to the directives of the governing bodies of the PA. To this extent, the relationship between the Assembly's President and Secretary General is comparable to that of the OSCE's Chairman-in-Office and Secretary General.

Unfortunately, some unnecessary tension between the PA and the OSCE is caused by the lack of willingness on the part of the representatives in the Permanent Council to take account of this aspect of the PA Secretary General's role. This refusal can be explained in part by the fact that the members of the Permanent Council, if they cannot treat the PA as a subordinate institution, e.g. on the level of the Office for Democratic Institutions and Human Rights (ODIHR), are only willing to treat the President as a full and equal partner, thereby placing themselves on his level. By contrast, the PA argues that the President is equivalent to the Chairman-in-Office and the PA Secretary General the equivalent of the OSCE Secretary General.

In passing, it should also be noted that, given the scope of the Assembly's tasks, the Secretariat, with 14 full-time positions in Copenhagen and Vienna, plus a handful of "research assistants" (paid interns), represents an extremely lean administrative apparatus that performs at an extraordinarily high level. Nonetheless, the proper functioning of the OSCE PA depends to a considerable extent upon the quality of the preparatory work performed by the secretariats of the national delegations for their delegates.

### *Policy Formation*

The PA is generally supposed to form policy as follows: The three Rapporteurs from the General Committees draw up reports and draft resolutions in dialogue with the respective Committee. These are then debated at the Annual Session, adopted by the plenary session, and compiled in the declaration named after the location of the meeting. In addition, “supplementary items” and “questions of urgency” may also be introduced. Despite many attempts to reduce their number by changing the Rules of Procedure to tighten up minimum legal requirements and time limits, these have now come to play a far greater role in political discussions than the generally well-balanced reports and draft resolutions produced by the Rapporteurs of the General Committees.

Supplementary items allow individual delegations to place controversial topics on the agenda. Though for a long time it was only the experienced parliamentary delegates of Western countries that made use of this, which created an impression of a certain imbalance, others have since learned to utilize this instrument. The Russian delegation considers it a great success that, at the 2004 Annual Session in Edinburgh, the draft resolution concerning minorities in the Baltic states it had proposed was adopted – albeit in a significantly amended form. The PA thereby demonstrated again that parliamentary procedures, if applied correctly, can diminish the hardening of the confrontation we are observing between the states “East and West of Vienna” in the OSCE.

### *Expanded Bureau*

Originally conceived of as an opportunity for the presidiums of the three General Committees (Chair, Vice-Chair, and Rapporteurs) to exchange views with the Bureau in preparation for the Annual Session, this consultative body (Rule 7 of the Rules of Procedure) has increasingly taken over the role formerly played by the Bureau. While it used to meet in Copenhagen in the week after Easter, the Expanded Bureau convened in Ljubljana in 2005 for the first time on the eve of the Ministerial Council – a time when traditionally the Bureau had met. The newly amended Rules of Procedure have now transferred the tasks of the Bureau and its title to the Expanded Bureau.

### *Winter Meeting*

The winter session of the Standing Committee was first held as a Winter Meeting in 2002, with sessions of the General Committees – including joint meetings of all three – and other bodies and side events. To address the concerns of delegations that feared they would not be able to afford to send their full complement of members, the three Committees adopt no resolutions (in

theory, the Standing Committee can make policy decisions based on their recommendations, albeit only with consensus-minus-one) nor is there a genuine plenary session, but rather the possibility of joint sessions of all three Committees. Furthermore, the length of the Meeting is restricted to two days. The event is always held at the OSCE's headquarters in Vienna's Hofburg and is, in particular, also intended to facilitate dialogue with the Organization's executive structure.

However, these are not the only reasons why the Winter Meetings are readily accepted and garner the full attention of the executive in Vienna. This owes more to the fact that it has twice been possible, via these meetings, to hold extraordinary debates on current global political issues that have not only proved remarkably successful, but have also represented the only transatlantic discussion of policy fundamentals with such a broad range of parliamentary participants. The first discussion was held in February 2003, on the eve of the invasion of Iraq by a US-led coalition, the second concerned the *Jyllands-Posten* Muhammad cartoons controversy and took place at the 2006 Winter Meeting. While the former was seen as extremely hazardous and in stark contrast to the desperate efforts of the governmental side to keep the topic off the OSCE agenda, the second, by contrast, followed an appeal from the OSCE to the parliamentarians to hold such a debate; in fact, by this point, it had already been decided to discuss the topic of "The present world crisis regarding freedom of expression and respect for religious beliefs".

#### *Autumn Meetings*

For several years now, the Standing Committee has met every autumn in connection with a seminar on a political issue chosen by the host country. In recent years, these two events have been joined by a third – the Mediterranean Forum. This followed a dispute over the desire expressed by several delegates from Mediterranean states to establish a Mediterranean regional working group. The proposal aroused fears that this might revive attempts to create regional groups, and might thus lead to the fragmentation of the PA. However, an invitation from the Italian delegation to discuss religious tolerance in Rome allowed the Parliamentary Assembly's leadership to co-opt the movement by announcing the creation of the Mediterranean Forum. The theme of "Partnership with the Mediterranean countries" has played an important role ever since.

The Mediterranean Forum is also intended to enhance the exchange of views with parliamentarians from the OSCE's Mediterranean Partners for Co-operation (Algeria, Egypt, Israel, Jordan, Morocco, and Tunisia). The OSCE's Mediterranean Partners for Co-operation considered the PA as a strong advocate of their desire for greater participation in the OSCE. This took on a practical aspect in election monitoring, for instance. Parliamentarians from partner countries took part in election monitoring in the OSCE area,

while the PA sent a small delegation to monitor the Algerian presidential election. However, the strong emphasis placed by some on improving relations with the Islamic world was criticized by others, although a number of delegations saw this as balancing the PA's high-profile activities on the topic of anti-Semitism, which were felt by some partners to focus too strongly on one side of the tolerance debate.

Nonetheless, the partners' enthusiasm for the partnership began to ebb, including in Vienna, where the sense of a new dawn in relations between the OSCE executive and the representatives of the partners that had emerged during the participating States' "outreach" discussions had disappeared. Despite the creation of a working group and declarations of the Ministerial Council, the number of points of concrete co-operation has not increased significantly.

This tendency became even more apparent with the outbreak of the Muhammad cartoons controversy. Egypt publicly accused the OSCE of having waited too long to involve itself in the controversy, despite repeated requests from Egypt and, later, Turkey. This view was shared by others, including some Western countries, but especially by Russia, which criticized the slowness of the OSCE's reaction several times in the Permanent Council, seeing it as evidence that urgent problems in the states West of Vienna were not being tackled with the same energy as those in the countries of the former Soviet Union. In the first major OSCE debate on the crisis, a certain helplessness on the part of the Permanent Council led to the PA being urgently requested to participate in the discussion. As reported, the debate was a great success. Nonetheless, it is interesting to note that the call for further action to be framed in close co-operation with the PA, which was contained in an EU paper on how to continue and in a corresponding paper of the OSCE Chairmanship, has had little effect in practice. During the 2007 Malta Autumn Meeting, the PA again had the courage not only to tackle the difficult issue of the Middle East Conflict, but also invited a delegation from Libya to participate as guests.

#### *Regional Conferences and Seminars*

Since 1997, the OSCE PA has held four spring conferences on sub-regional economic co-operation – in Monaco (1997), Nantes (1999), Bern (2003), and Tromsø (2005). In 2003, on the basis of a proposal made by the previous year's PA President, Adrian Severin, at the 2002 Berlin Annual Session, a Trans-Asian Parliamentary Forum was held in Almaty, Kazakhstan. It met with great interest on the part of the Asian Partners for Co-operation. Although efforts have been made to organize a follow-up event, this has not yet been achieved (a loose biennial rhythm had been envisaged), because potential host states in the region – with the exception of Kazakhstan, which, as is generally known, is seeking to secure the OSCE Chairmanship – are under-

standably reluctant to take on the related costs and administrative burden. Further conferences and events that have been held include:

- January 2000, Bled: Strengthening Defence Committees in Bosnia and Herzegovina,
- May 2001, Helsinki/Mariehamn: Seminar on Self-Government,
- May 2003, Chişinău/Tiraspol: Parliamentary Seminar on Federalism,
- June 2003, Almaty: Trans-Asian Parliamentary Forum. The Trans-Asian Dimension of the OSCE: A Vital Security Link,
- September 2003, Chişinău/Bender: Second Parliamentary Seminar on Federalism,
- November 2004, Sofia: Parliamentary Conference on Fight against Organized Crime in South-Eastern Europe.

*Ad Hoc Committees, Working Groups, Democracy Teams, Parliamentary Teams, and Special Representatives*

Because the structure of the three General Committees and their original limitation to one session per year was perceived as too cumbersome, for some time now, use has been made of *Ad Hoc* Committees or Working Groups, sometimes called Democracy Teams or Parliamentary Teams, appointed by the Standing Committee on the suggestion of the President. *Ad Hoc* Committees have been formed to deal with, for example, Belarus (headed by the German parliamentarian Ute Zapf), Abkhazia, and Moldova. In 2001, an *Ad Hoc* Committee on Transparency and Accountability was set up to promote OSCE reform. For quite some time, the Committee was chaired by US Congressman Steny Hoyer, who has recently been elected Majority Leader in the US House of Representatives. Since this year's Brussels Annual Session, it has been chaired by the former Bulgarian Foreign Minister and 2004 OSCE Chairman-in-Office, Solomon Passy. Because the modalities for setting up *Ad Hoc* Committee meetings are still seen as too inflexible, however, and due to constraints on members' time, PA Presidents have made use of a large number of other instruments, partly drawing on the right of the President to appoint persons to support his work or act in his name. This was the origin of the "Democracy Teams" that have focused on matters such as the Stability Pact for South Eastern Europe and on Kosovo (the latter chaired by the deputy speaker of the German *Bundestag*, Rita Süßmuth), and Special Representatives of the President on the Nagorno-Karabakh conflict, South East Europe, Mediterranean Affairs, Central Asia, Human Trafficking Issues, Gender Issues, and Guantanamo. A Special Representative has now also replaced the Working Group on the OSCE Budget.

### *Participation in Third-Party Events*

The PA participates in various joint events with the Council of Europe and the European Parliament within the scope of what are known as parliamentary troikas. The Parliamentary Troika for the Stability Pact for South East Europe meets regularly. The PA also regularly attends conferences, seminars and round-table discussions organized by the OSCE missions, and organizes seminars jointly with other OSCE structures, such as the Conflict Prevention Centre (CPC).

### *Political Groups and Elections*

Within the Parliamentary Assembly, there are three, sometimes four, political groups without formal status – Social Democrats/Socialists, Conservatives/like-minded, Liberals, and, at times, a European Left Group, made up mostly of Greens and other environmentalists. Their role, however, is considerably more limited than in parliamentary assemblies with a smaller membership. That is because parliamentarians from North America, Central Asia, and, to some extent, Russia prefer, on the whole, to see themselves as independent of such groupings. There are also other interest groups that may in fact have a stronger effect, such as the PA members that are also members of the NATO PA, the Nordic Group, the Mediterranean states, or the Francophone countries. The attempt has also been made to create an EU group (under the leadership of French delegates), but this was largely unsuccessful. The work of the groups mainly concerns support of candidates for the various officer positions in the elections held during each Annual Session. However, in the PA the success or failure of a candidacy depends far more on personality, record of work in the PA, good working relations with the International Secretariat, and, crucially, the candidate's acceptability to both the Americans and the Russians than it does membership of a group. Nonetheless, the groups do facilitate the selection process by drawing up a joint set of candidate recommendations in which the number of controversial candidates is reduced.

Between 1999 and the Brussels Annual Session, the OSCE PA had four Presidents. They were Helle Degn (Denmark), Adrian Severin (Romania), Bruce George (UK), and Alcee Hastings (Florida, USA). The last-mentioned, a man of African-American descent, is an outspoken liberal Democrat, while the others are Social-Democrats. At the Brussels Annual Session in July 2006, Göran Lenmarker from Sweden became the first conservative President in four electoral cycles, beating the Social-Democrat Kimmo Kiljunen by a small margin in a run-off after Liberals and another Conservative were eliminated in the first round. The apparent domination by one side of the political spectrum is, in fact, a coincidental result of the circumstance that PA elections are not decided on the basis of political affiliation, but depend more on personality and qualifications. Successful candidates generally have a long

and respected history of working with the OSCE PA. By electing a woman, an Eastern European, an American representative of an ethnic minority, and now a conservative to the office of President, the PA has also shown that its members do take into consideration change and the inclusion of minorities as an essential element of democracy.

The same applies to the nine Vice-Presidents, not only because the proportion of women is significantly higher than with regard to senior positions in the OSCE executive (as is the overall percentage of women in the Assembly). Despite using secret ballots, and hence having no opportunity to steer outcomes, the PA has also been consistently successful in including the delegations from “East of Vienna”, partly by electing Russian candidates as Vice-Presidents. The political instincts of parliamentarians – precisely because they are free from the shackles of bureaucratic horse-trading – often lead spontaneously to more appropriate results than personnel packages carefully designed by diplomats.

### *Co-operation Between the PA and the OSCE Executive*

#### *Starting Positions*

A fundamental question that has concerned the OSCE PA in recent years is that of how to improve co-operation between the PA and the governmental side.<sup>8</sup> This was combined with the hope of reforming the OSCE’s opaque and undemocratic decision-making process. The starting point was events in the late 1990s such as the allegedly or actually missing funds in the OSCE budget, and the tortuously long decision-making processes when it came to budgetary matters and appointments of senior officials. This topic had already been taken up by the former PA President, Helle Degn. Her successor, Adrian Severin, redoubled efforts in the struggle for “transparency and accountability”, as did the PA Secretary General, who reflected the long-held Assembly positions that were highly critical of the OSCE’s democratic deficit and the effects of the consensus principle on decision-making. Criticisms that were openly voiced in the OSCE, such as those contained in a resolution on the democratic deficit (1999), led to a powerful reaction by a number of OSCE ambassadors from the Permanent Council in Vienna, in particular. In late 2001, it was agreed to hold a closed meeting in Salzburg in early 2002, at which 14 representatives of the PA, consisting in the most part of the members of the Committee on Transparency and Accountability, led by US Congressman Steny Hoyer, and including Vice-President Rita Süßmuth, were to meet an equal number of members of the Permanent Council. In the end, all the key figures were present, including both Secretaries General.

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8 Cf. Habegger, cited above (Note 2), pp. 129ff.

Of course, there could be little convergence with regard to the fundamental question of the PA's role in oversight of the OSCE's executive side. While the parliamentarians pointed out that their *political* role makes them the natural partners of the Ministerial Council (the Permanent Council being an *administrative* organ), the ambassadors stressed that their role is a political one and that they represent the country as a whole and thus all its institutions, including the legislature. Nonetheless, it was still possible to reach agreement on a large number of "questions of protocol". As a result, the PA now no longer always comes last in lists of the members of the OSCE family, such as on the OSCE website. Agreement was also reached on appearances at each other's meetings, although these had long been established practice, with the exception of the presentation of the budget to the PA Standing Committee by the Secretary General.<sup>9</sup>

In contrast, no agreement was reached over whether the PA can expect the executive to respond to its statements and resolutions in the way that, for instance, the NATO Secretary General responds to the NATO PA. The representatives of the governments singled out the consensus principle as the most significant obstacle, as achieving unanimity on complex resolutions was nearly impossible. As later became apparent, however, behind this lay a fundamental rejection of anything that made the Permanent Council or any other part of the OSCE leadership appear to be accountable to the PA.

### *The Vienna Liaison Office*

The most tangible result of the retreat is the Liaison Office in Vienna, which had first been proposed by Helle Degn and was supported in principle by the Austrian government.<sup>10</sup> However, the ambassadors made it clear that they would only accept the appointment of someone with plenipotentiary powers and a rank equal to their own. Apparently, they were thinking in terms of an ambassador or former ambassador. Even if it had avoided the cost, the PA would have been unwilling to accept such a "role reversal", but rather conceived of a more modest solution: an office whose task would be to gather and distribute documents and to act as a bridgehead for visits by the President, other leading politicians, or the PA Secretary General. Against this background, the German *Bundestag*, on the initiative of PA Vice-President Süssmuth, under the leadership of the *Bundestag* Speaker and Head of the German PA Delegation, Wolfgang Thierse, and with the strong support of the Foreign Office, resolved to give the proposal a boost by seconding an official to the PA to head the office. The Speaker of the German *Bundestag* was thus able to announce, at the Berlin Annual Session 2002, a three-year second-

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<sup>9</sup> Cf. *ibid.*

<sup>10</sup> Cf. Helle Degn, *The OSCE Parliamentary Assembly – Growth in Recent Years*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2001*, Baden-Baden 2002, pp. 365-372, here: p. 370.

ment to Vienna of a civil servant with the rank of Ambassador (First Class), and PA Secretary General Oliver subsequently appointed him head of the Vienna Liaison Office.

For months beforehand, however, the plans were balanced on a knife-edge. President Severin and the Portuguese Chairmanship wanted to sign a memorandum of understanding, if possible before the Berlin Annual Session, which was also to mark the end of Severin's Presidency. This was to define the modalities of involvement of OSCE PA representatives in Vienna, and especially those of the Special Representative of the OSCE PA to the OSCE. The governmental side, which found itself confronted by a permanent representative of the PA on its home turf for the first time, was only ready to agree to written declarations that did not go as far as had previously been the case in practice.<sup>11</sup> This, in turn, met stiff opposition from the *Ad Hoc* Committee for Transparency and Accountability and the PA Secretary General. In the end, there was no memorandum; but thanks to Germany's generous offer, the Office was reprieved. Instead of a written decision, agreement was reached on a "pragmatic solution", which effectively left responsibility for further development in the hands of those active in Vienna. At the Autumn Meeting in Madrid, following an announcement by PA President Bruce George, the Standing Committee warmly welcomed the German official, who was designated "Special Representative", permitted him to accept the title of ambassador from the German authorities, and expressed their pleasure that he would be the PA's ambassador in Vienna. This proved a valuable source of initial momentum as, although he was part of the PA Secretariat, the ambassadors in the Permanent Council could not dispute the Special Representative's right to speak on behalf of the Parliamentary Assembly in their meetings. At the Brussels Annual Session, the Standing Committee approved a budget that allowed for changing the seconded position into a contracted one.

Among other things, the OSCE Rules of Procedure now cover the rights of representatives of the PA to participate in meetings of OSCE bodies. However, there is still no definition of the PA's involvement in the budgetary process or of a requirement for feedback on its recommendations. A comparison of the rules relating to the PA with the situation at the time the Liaison Office started its work in November 2002 shows just how much progress has been made in co-operation. In 2002, the new Special Representative was requested to refrain from attending meetings other than sessions of the Permanent Council. The Portuguese Chairmanship feared, not unjustifiably, that Belarus, whose PA delegation was at that point still not able to assume their PA seats and which had therefore opposed, for instance, the inclusion of the point "Address by the President of the OSCE Parliamentary Assembly" on the agenda of the Porto Ministerial Council, would harden its position on other matters, too. However, both Portugal and the Netherlands, which held the Chairmanship in 2003, supported the gradual integration of the Special

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11 Cf. Habegger, cited above (Note 2), p. 132.

Representative in further meetings. Subsequent Chairmen-in-Office followed this example, with some foreign ministers who were keen parliamentarians making this issue a priority.

The OSCE Rules of Procedure mentioned above include a general right of PA representatives to be included in an advisory capacity in all meetings of OSCE decision-making bodies, as well as in all existing “informal” sub-committees. They also state that the President of the PA should speak at the opening sessions of OSCE Summits and Ministerial Council Meetings. The PA’s demands regarding the memorandum have thus been largely realized or even exceeded in practice despite the memorandum’s failure. This progress reached is – however – endangered by the attitude of individual OSCE ambassadors who continue to resent the Parliamentary Assembly’s role in the OSCE and reject its requested role in enhancing transparency and accountability – as it has again surfaced in the course of the discussions about the Parliamentary Assembly’s leadership in Election Monitoring.

#### *The Contribution of the PA to OSCE Reform – the Washington Colloquium*

Given the active role that the PA has played for years in demanding OSCE reform, its representatives could not understand why no individual recommended by the PA was considered for inclusion on the Panel of Eminent Persons that the OSCE Chairman-in-Office appointed on the basis of the Ministerial Council Decision of Sofia. Concurring with a proposal of the Chairman-in-Office, the Slovenian Foreign Minister, Dimitrij Rupel, President Hastings convened a further expert commission on behalf of the PA. Seventeen renowned OSCE experts – politicians, diplomats, parliamentarians, and academics, many of whom combined more than one of these roles in their person – were invited to contribute.

On 5 and 6 June 2005, a colloquium on “The Future of the OSCE” was held in Washington, D.C. It was chaired by the PA President and jointly organized by the Swiss Foundation for World Affairs. On 24 June, President Hastings presented the Colloquium Report to the Chairman-in-Office. Secretary General Oliver briefed the Permanent Representatives in Vienna on the Report. At the Annual Session in Washington, the PA adopted a resolution endorsing the Report in general terms on the recommendation of the *Ad Hoc* Committee on Transparency and Accountability and called upon the OSCE to take it into consideration in its future consultations.<sup>12</sup>

The Report was available to the participants in the High-Level Consultations in September 2005. The annotated agenda of that meeting made explicit reference to its findings. In his summary, the Chair referred directly to

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12 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, reprinted in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2005*, Baden-Baden 2006, pp. 381-388.

the role of the PA, which was represented in the consultations by the PA Special Representative from the Vienna Liaison Office. In the subsequent months, however, a fierce tug-of-war raged over whether the schedule for reform – the “roadmap” – eventually adopted by the Ministerial Council of Ljubljana should refer directly to the PA’s contribution. In the end, this was to prove possible, although most of the PA’s wishes were not reflected in the roadmap. Nor have the – albeit less ambitious – Vienna consultations led very far as yet. This was criticized – most recently at the Brussels Annual Session and by the Special Representative at the Reinforced Permanent Council in Vienna on 20 July 2006 – alongside the lack of willingness to cooperate with the PA in this area.

The Colloquium summarized its conclusions as follows:

1. The crisis of the OSCE is primarily political in nature and can therefore not be solved by structural reforms alone. Instead, it is necessary for the participating States to reconfirm and implement the commitments they voluntarily entered into.
2. The OSCE’s activities in the areas of security, the economy, and the environment must not be strengthened at the expense of the human dimension. The first basket should be enlarged by further elaborating the Code of Conduct on Politico-Military Aspects of Security and by enhancing the role of the Forum for Security Co-operation.
3. In the area of election observation, general standards should be developed that do not compromise existing commitments. It is recommended that the PA and ODIHR increase their co-operation to combat threats to the independence of OSCE election observation. Finally, more election observation activities should be carried out in Western countries and double-standards should be avoided.
4. The role of the OSCE Secretary General should be strengthened in the political, budgetary, and administrative spheres. He should be able to issue policy pronouncements in consultation with the Chairman-in-Office and to criticize breaches of OSCE commitments.
5. The OSCE should overhaul its decision-making procedure to improve its ability to make timely decisions. Modifications of the consensus principle should be explored for decisions relating to personnel, budgeting, and administration.
6. Transparency and accountability could be improved by making public the names of countries blocking consensus and requiring them to publicly defend their position.
7. After appropriate consultations, the PA could approve the OSCE budget and confirm the nominated Secretary General by an absolute or weighted majority vote.

8. The budget must be passed in time and must be appropriate to the OSCE's tasks. Multi-year planning should be introduced to enable long-term strategic thinking.
9. Structural reform should improve the effectiveness of the OSCE: 1) by creating an Analysis and Prospective Unit in the Secretariat; 2) by creating a Lessons Learned Unit, also in the Secretariat; and 3) by developing a civilian rapid reaction force.

### *OSCE Budget*

As might be expected of parliamentarians, the PA has been greatly interested in the OSCE's budget ever since the confusion that affected it in the late 1990s. As a result of the clashes of 2000 to 2002 – or rather the means by which they were overcome – the OSCE Secretary General now presents the budget to the Standing Committee of the PA at its Autumn Meeting and answers questions from the floor. The PA is also entitled to give the OSCE its written recommendations. No official answer to these recommendations was received from the OSCE until the consultations on the 2006 budget, when a letter was sent by the Chairman of the Permanent Council. Despite this, discussion of the PA's statement is still not included as an item on any formal agenda. On the other hand, the PA still has to clarify its procedure for formulating its comments.

The first sets of recommendations were forwarded by then President Bruce George after a number of PA officials had been asked to make their views known. The Working Group on the OSCE Budget was later formed under the chairmanship of a Dutch parliamentarian, and formulated the PA's comments. In contrast to the early years, the recommendations made by the Working Group refrained from detailed budgetary analysis but rather draw the OSCE's attention to recent PA resolutions that are relevant for the budget. Two fundamental demands repeatedly appear: for the introduction of multi-year budget planning, and for the reduction of seconded personnel in the missions in favour of contracted personnel. After the 2006 Annual Session in Brussels, a Special Representative on the Budget, an Icelandic parliamentarian, who intends to work more intensively with the individual stages of the highly complex budgetary process, has replaced the Working Group.

In this connection, it is worth noting that the Vienna Liaison Office of the OSCE PA has taken part in the consultations of the Advisory Committee on Management and Finance (ACMF) since February 2004, the body that has day-to-day control of the OSCE's administrative apparatus. The committee works together with the Secretariat to draw up the budget and monitor expenditure, and has a direct influence on personnel and administrative matters. Because it is largely staffed by younger diplomats, who are not necessarily experts in administration or budgeting, it is a target of criticism, amounting to accusations of micromanagement by non-experts.

The election observation activities of the OSCE PA are constantly expanding; in just over twelve years, more than 80 missions have been deployed. Although such activities were originally supposed to be limited to national parliamentary elections, in the meantime there have been a number of exceptions; as well as several presidential elections, the recent Montenegrin referendum was also observed. There is a growing tendency for parliamentarians to take part in the observation missions, which now generally have between 60 and 100 members. There was considerable public and media interest in the observation of the elections in the USA in November 2004, but also in the missions to Georgia, Ukraine, Kyrgyzstan, and Russia.

The President of the Assembly proposes the head of the PA election observation mission to the Chairman-in-Office to lead the OSCE short-term observation mission and act as Special Co-ordinator. This role is usually taken by the President, one of the Vice-Presidents, or another highly experienced member of the Assembly. The Special Co-ordinator has the task of delivering the preliminary post-election statement on the results of the observation on the day after the election. The announcement of the preliminary results naturally receives a great deal of publicity, especially where elections in crisis regions are concerned.

Co-operation and the division of labour with ODIHR is governed by a Co-operation Agreement that was concluded between the PA and the then Danish Chairmanship in 1997. Unsurprisingly, this Agreement assigns the political leadership role to the parliamentary side – notwithstanding repeated attempts by ODIHR to contest this. In view of the current debate over election observation and Russian accusations of bias, ODIHR, alongside a number of Western representatives, laid the blame for Russian dissatisfaction on what are seen as politically motivated statements emanating from parliamentarians. This is hardly convincing, however, as such statements are usually negotiated in detail between the Special Co-ordinator and the ODIHR leadership on the basis of a draft that should be prepared by the ODIHR and the PA (moreover ODIHR has recently excluded the PA from the drafting process). Unfortunately, this misunderstanding led some diplomats to consider meeting Russian concerns by “depoliticizing” the missions via a removal of parliamentarians from this core activity. After all the progress described above, this created a major setback in the relationship between the PA and the governmental side.

The parliamentary approach is to ask the political question: “Were the elections free and fair?” ODIHR’s technocratic approach, on the other hand, which is based on methods and criteria whose universal applicability is not beyond question, leads to a verdict that usually reaches the same conclusions and also has a political effect, but contrasts in terms of phrasing and overall approach. The parliamentarians’ knowledge and experience in this field,

which is one they know inside out, are undoubtedly at the very least as extensive as those of most short-term observers sent by governments – who have, at best, received some basic training, are usually highly committed, and are often involved in NGO work. The heads of the ODIHR teams (called “On-site Co-ordinators” in the Agreement) and especially the ODIHR leadership have a decisive influence on the overall direction of the statements and reports issued, and it is their selection, among other points, that has become a target of Russian criticisms, whereas the Special Co-ordinator has the triple legitimacy of being an elected parliamentarian, nominated by the elected PA President, and appointed by the Chairman-in-Office. With their political sensibilities, it is not rare for parliamentarians to even be more diplomatically adept at avoiding the appearance of finger pointing. The assessment of the observations against the background of the Copenhagen criteria is a political evaluation that is given more credibility when it emanates from highly legitimate parliamentarians than from an ODIHR appointee. Nonetheless, Russia, after the attempts to put the blame on parliamentarians, had originally demanded that the Co-operation Agreement be renegotiated, and many Western states had backed Russia’s calls. It was only after the PA made these misunderstandings public that all Vienna delegations accepted the crucial role of parliamentarians.

The PA believes that it is necessary – for reasons of credibility and acceptance – to perform observations of at least some elections in “established democracies” on the same scale as in the “new democracies”. However, ODIHR sends – allegedly for financial reasons – only small assessment teams to established democracies, thus depriving the PA, which might be of a different opinion, of the logistical support called for in the Co-operation Agreement. Lawmakers from Western countries, and not only those from opposition parties, have urgently demanded equality of treatment on this issue. Among other things, it is hoped by some that the participation in missions to observe polling processes in established democracies might prove a beneficial learning experience for representatives of the new democracies. This became particularly evident during the 2004 US presidential elections. ODIHR did not carry out a full observation, despite the problems with the previous election, which had been much discussed both in America and around the world. ODIHR was only prepared to examine the implementation of the Help America Vote Act. In Vienna, there was concern that the negative reaction in some quarters of the Bush administration could result in opposition to the OSCE with financial consequences. In the end, the PA was forced to take over most of the organizational work.

Once they had arrived in the country on the invitation of the State Department, public opinion towards the election observers improved rapidly. Even initially critical circles proved receptive to the argument of a positive learning experience for certain observers. The State Department was also openly supportive of the mission in the later stages. Overall, the mission was

a great success, thanks, in particular, to the successful demonstration of the PA's impartiality and the considerable interest of the media. Another consequence was that the US government expressed a strong interest in continuing the dialogue with the PA. The conclusions reached by the head of the PA delegation and presented to ODIHR for inclusion in the final report, however, were not taken into account in Warsaw – even though the Co-operation Agreement clearly requires this. When these and other problems with the co-operation or with individual aspects of ODIHR's activities are criticized by the PA, however, Western diplomats – especially those who would have been willing to give in to Russia's wish to de-emphasize the political element by reducing co-operation with the PA – are generally quick to accuse the PA of taking sides with the critics. At the time of writing, the discussion had reached its peak. The report that ODIHR delivered in November 2006 to the ministers about possible improvements in its area of responsibility, including election observation, again reveals that ODIHR wants to see the PA as an OSCE outsider akin to other observer groups and prefers to ignore the leadership role clearly defined in the Co-operation Agreement.

This issue precipitated sometimes heated discussions at the 2006 Brussels Annual Session, in which a few politicians swung behind the diplomats' position, while most called for a strengthening of the parliamentary leadership role. In some individual cases, the second group's anger even took the form of a demand that ODIHR's role be reduced to providing administrative support to the PA, and that responsibility for the OSCE's election observation missions be placed entirely in the hands of the PA, as is the case with the Council of Europe and other organizations. Ironically, this discussion took place with reference to the report and draft resolution of the General Rapporteur of the Third Committee, the President of the Belgian Senate, Anne-Marie Lizin, and hence from the same country as the Chairmanship. However, proposed amendments that were intended to strengthen the wording of those passages of the draft resolution concerning election observation in accordance with the views of the critics were just as incapable of securing a majority as those that aimed to water down Lizin's text. As things currently stand, and as stated in the 2006 Declaration of the PA Annual Session in Brussels, the PA would like to co-operate with ODIHR on the basis of the Co-operation Agreement, with a strong leadership role and in strict avoidance of double standards. The 2006 Brussels Ministerial Council Decision on Strengthening the Effectiveness of the OSCE stressed "that election observation is a common endeavour involving the OSCE/ODIHR, the OSCE Parliamentary Assembly and other parliamentary institutions", recognized "that close co-operation with the OSCE Parliamentary Assembly considerably enhances the visibility of the OSCE's election observation efforts", and called "on the ODIHR to continue to work in partnership with the Parliamentary

Assembly on election observation missions on the basis of the 1997 Co-operation Agreement”.<sup>13</sup>

### *Annual Sessions*

In the period covered by this contribution, eight Annual Sessions took place on the following general topics:

- Eighth Annual Session, 6 to 10 July 1999, St. Petersburg, “Common Security and Democracy in the Twenty-First Century”;
- Ninth Annual Session, 6 to 10 July 2000, Bucharest, “Good Governance: Regional Co-operation, Strengthening Democratic Institutions, Promoting Transparency, Enforcing the Rule of Law and Combating Corruption”;
- Tenth Annual Session, 6 to 10 July 2001, Paris, “European Security and Conflict Prevention: Challenges to the OSCE in the 21st Century”;
- Eleventh Annual Session, 6 to 10 July 2002, Berlin, “Confronting Terrorism: Global Challenge in the 21st Century”;
- Twelfth Annual Session, 5 to 9 July 2003, Rotterdam, “The Role of the OSCE in the New Architecture of Europe”;
- Thirteenth Annual Session, 5 to 9 July, 2004, Edinburgh, “Co-operation and Partnership: Coping with New Security Threats”;
- Fourteenth Annual Session, 1 to 5 July 2005, Washington, D.C., “30 Years Since Helsinki: Challenges Ahead”;
- Fifteenth Annual Session, 3 to 7 July 2006, Brussels, “Strengthening Human Security in the OSCE Region”.

In addition to the reports of the General Rapporteurs, each of which looks at the entire scope of the OSCE’s work from the perspective of one of the three General Committees and with regard to the topic of the Annual Session, the agenda of Annual Sessions have included resolutions on the following supplementary items:

- The role of the OSCE in an enlarged Europe
- OSCE reform
- The OSCE’s democratic deficit
- Transparency and accountability in the OSCE
- Strengthening the role and raising the effectiveness of the OSCE PA

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13 Organization for Security and Co-operation in Europe, Ministerial Council. Brussels 2006, Second day of the Fourteenth Meeting, MC (14) Journal No. 2, Agenda item 8, Decision No. 19/06, Strengthening the Effectiveness of the OSCE, MC.DEC/19/06, 5 December 2006, p. 5.

- Improving the implementation of OSCE election standards and commitments and the effectiveness of OSCE election observation activities (twice)
- Co-operation between the PA and the Permanent Council of the OSCE
- Following up OSCE activities in national parliaments
- Financing ODIHR
- Financing the post of an ODIHR Advisor within the programme on Tolerance and Non-Discrimination
- Promoting gender equality in the OSCE
- The Mediterranean dimension of the OSCE (at three Annual Sessions with different focuses)
- Renewing the OSCE partnership
- Anti-Semitism in the OSCE region (five Annual Sessions)
- National minorities
- Belarus (three Annual Sessions)
- Freedom of the media
- Strengthening effective parliamentary control of the security and intelligence services
- Crisis prevention and conflict resolution
- The North Caucasus
- The conflicts in Armenia, Azerbaijan, and Nagorno-Karabakh
- Georgia – the situation in Abkhazia
- Georgian peacekeeping troops in South Ossetia
- Moldova (six Annual Sessions)
- Forming a Global System of Warning and Eliminating Consequences of Natural Disasters
- Risk management
- Monitoring the social development of the OSCE region
- Co-operation with civil society and non-governmental organizations
- Rule of law and human rights in the Russian Federation
- South-Eastern Europe (three Annual Sessions)
- Activities of the SECI Regional Center for Combating Trans-Border Crime
- Kosovo (two Annual Sessions)
- School education for Roma
- Anti-personnel mines (two Annual Sessions)
- Small arms and light weapons (two Annual Sessions)
- The special consequences of terrorism for women
- Terrorism and suicide bombers
- Terrorism and human rights (two Annual Sessions)
- Money laundering
- Corruption and international crime in the OSCE region (three Annual Sessions)

- Limiting parliamentary immunity to strengthen good governance, public integrity, and the rule of law in the OSCE region.
- Trafficking in women and children (all Annual Sessions in the period examined, sometimes with direct appeals to OSCE staff)
- Child pornography
- Ukraine (two Annual Sessions)
- Welcoming Afghanistan as a new partner for co-operation
- The International Criminal Court
- Abolition of the death penalty
- Torture (two Annual Sessions)
- Guantanamo
- Human rights violations in Libya
- The murder of Galina Starovoitova
- Maritime security and piracy

#### *Details on Selected Topics*

##### *Belarus*

After hearing from both Belarusian sides and examining the report of a rapporteur mission sent to Belarus by the OSCE Parliamentary Assembly, the Standing Committee resolved on 7 July 1998, on the recommendation of the Credentials Committee, to uphold the mandates of the delegates of the 13th Supreme Soviet as Belarus's official representatives in the Assembly. Belarus was urged to fulfil the preconditions for the holding of free and fair elections in line with OSCE commitments; this includes a free and open press, fair conditions for parties and candidates while upholding the principle of equality, and international election observation that may be supported by the OSCE Advisory and Monitoring Group (AMG) and other OSCE institutions. In addition, an *Ad Hoc* Working Group was also created to support the work of the AMG in Belarus, to promote democratization, to facilitate dialogue, and to smooth the way towards national reconciliation.

This position was maintained and the representatives of Belarus's new legislature were denied their seats until the end of the official term of the 13th Supreme Soviet. Even thereafter, the legitimacy of the representatives sent by the Belarusian parliament continued to be called into question and the matter was referred to the Credentials Committee. This led to a lively discussion that cut across national and party boundaries of whether this was still appropriate after the mandate of the delegates of the 13th Supreme Soviet had expired. In both the relevant Committees and the Secretariat, the realization grew that the PA had no actual means of sanction available when a participating State was in breach of OSCE commitments.<sup>14</sup> Furthermore, there was also strong support for the view that OSCE was an organization whose participating States had all committed themselves to the pursuit of certain goals, but that fulfil-

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<sup>14</sup> For more details, cf. Habegger, cited above (Note 2), p. 99.

ment of these goals was not a precondition for membership – unlike the Council of Europe. The essence of the OSCE was rather to be found in the declared readiness to enter into dialogue, even where deep differences of opinion exist. The creation of mechanisms for monitoring and sanctioning was also demanded by some, on the model of the Council of Europe, for instance. However, in the face of the alternative view, as detailed above, and given the fact that changes to procedures meant that it was necessary to achieve “consensus-minus-one”, i.e. near unanimity, this path was not seriously pursued. Finally, at the Winter Meeting in Vienna in 2003, the majority necessary for a further adjournment of the examination of the new delegates’ legitimacy was not achieved, and they were able to occupy their seats in the Assembly.

Despite numerous, repeatedly recurring setbacks, the Belarusian side also made use of the opportunities for dialogue that arose from the existence of the *Ad Hoc* Working Group. After the most recent elections, which were criticized in the strongest possible terms by the PA and ODIHR, and the imposition of travel restrictions by the EU, Belarus at first saw no possibility of further visits to the country by the Working Group. During the Annual Session in Brussels, however, the Belarusian delegates once again met with the Working Group, which suggests that an opportunity exists to restart the dialogue.

#### *South-Eastern Europe*

The numerous recommendations made on the situation in South-eastern Europe, and particularly in the Western Balkans, demonstrate that the PA considers this a key aspect of its work. With the Democracy Teams on South-eastern Europe and on Kosovo, and the recent establishment of the position of Special Representative on South East Europe, the PA is not only looking to co-operate with the region’s parliamentarians and to support concrete institution-building programmes, it has also repeatedly made strenuous efforts to bring together politicians from former conflict parties – sometimes successfully. The PA takes part in the work of the Task Force on Parliamentary Cooperation under the Stability Pact for South Eastern Europe and is a member of the Stability Pact’s Parliamentary Troika, whose Presidency the OSCE PA will assume for the second time in 2007.

#### *Civilian Control of the Security Forces*

The PA has always made a concrete contribution to this area in connection with institution building, but increasingly also within the scope of the current discussion on respect for human rights, particularly in the fight against terrorism. For example, a highly productive two-day seminar with over 150 attendees was held in Vienna in May 2004 on the topic of parliamentary control of the armed forces, police and security services, which the PA hosted jointly with the Conflict Prevention Centre. Other events focusing on this

topic were also held elsewhere. The role of private security forces and the issue of oversight is also being increasingly discussed. The resolution on parliamentary oversight in the Brussels Declaration represents the most thorough treatment of these issues so far.

#### *Anti-Semitism*

There can hardly have been an initiative of the parliamentarians with such an immediate influence on the business of the OSCE as that on combating anti-Semitism. After holding a hearing on increasing anti-Semitic tendencies in Europe, the US Helsinki Commission, an organ of the US legislature with executive participation, made a request to the German hosts of the 2002 OSCE PA Annual Session in Berlin that a side event be held on the topic. Despite the lack of preparation time, concerns about the impending German parliamentary election campaign, and the crisis over the death of former minister Jürgen Möllemann, it not only proved possible to organize a very impressive side event, but the German delegation was also quick to assume co-responsibility for the initiative. First the French delegation and then the Russian PA Vice-President of the time aligned themselves with the American-German initiative. Further side events on the same topic were a feature of subsequent PA meetings. On the urging of the USA, and following the example set by the parliamentarians, the OSCE instigated a programme of tolerance-related activities and meetings, including the Anti-Semitism Conference in Berlin. When the governments agreed, by way of a compromise, to appoint three special representatives for tolerance corresponding to the three “religions of the book”, the Member of the German *Bundestag* and, at the time, Vice-President of the PA, Gert Weisskirchen, was named Personal Representative of the OSCE Chairman-in-Office on Combating Anti-Semitism.

#### *Gender Equality*

From 1993 until 2002, the PA held a special meeting during its Annual Sessions for female parliamentarians. At the Berlin Annual Session in 2002, the female lawmakers – in part on the initiative of PA Vice-President Rita Süsmuth – succeeded in achieving agreement that gender equality should be discussed at every regular meeting, should be added as a permanent item to the agenda of the plenary session, and the post of PA Special Representative on Gender Issues should be created and a person entrusted with pursuing this issue in the Secretariat. This brought an end to the separate special meetings (though they continued in the form of working breakfasts).

The report of the Special Representative on Gender Issues is not limited to the PA but also describes, in close co-operation with relevant OSCE offices, the situation within the executive. It is considered a valuable aid by both the Senior Gender Advisor in the OSCE Secretariat and the relevant Permanent Council working group. Scandinavian states also consider gender equality to be one of the key focal points of their work in the OSCE. Further

results include unambiguous statements in resolutions of the PA, most recently at the Washington Annual Session. This urged the parliamentarians to scrutinize the actions of their own governments with regard to gender equality.

#### *Trafficking in Human Beings*

Over many years, the US delegation to the PA has worked tirelessly to keep the topic of human trafficking on the agenda, addressing not only police counter-trafficking measures, but also victim protection. Explicit reference was already made at the 2000 Ministerial Council to relevant articles on this topic in the PA's Bucharest Declaration.<sup>15</sup> The final declaration of the 2003 Rotterdam Annual Session recommended that the OSCE take the leading role in the fight against human trafficking within the community of international organizations. This was raised in a discussion of the OSCE's future activities during the consultations at the Maastricht Ministerial Council in that same year, and there followed close contacts between the PA and the relevant OSCE offices. In February 2004, US Representative Chris Smith was appointed Special Representative of the PA President on Human Trafficking Issues. The Decisions of the Ljubljana Ministerial Council owed a great deal to the resolutions on the conduct of members of international organizations that the PA had adopted at its 2005 Annual Session in Washington.

#### *Guantanamo*

At the PA's Annual Session in Rotterdam in the summer of 2003, against the background of a draft resolution on the topic of Guantanamo Bay detainment camp, there developed a discussion between representatives of the US delegation and the resolution's sponsors. For a time, it appeared that the participants were ready to agree to suspend discussions while simultaneously creating a mixed delegation to inspect the prison camp. This initiative failed, however, as a result of the uncompromising position of some Europeans. An entirely American delegation did later visit the camp and report back to the Assembly. In 2005, President Alcee Hastings appointed the President of the Belgian Senate, Anne-Marie Lizin, who was at that time the Rapporteur of the third General Committee, as the Special Rapporteur on Guantanamo. The US government allowed her to visit the camp in March 2006, although she was subjected to the same restrictions as other visitors, namely a ban on speaking with the prisoners and on spending the night at the camp. Attending the OSCE Permanent Council, the UN Special Rapporteur on Torture, Manfred Nowack, withdrew his criticism of the PA Special Rapporteur for ac-

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15 Cf. *ibid.*, p. 165; cf. also Organization for Security and Co-operation in Europe, Eighth Meeting of the Ministerial Council, Vienna, 27-28 November 2000, Decisions of the Eighth Ministerial Council, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2001*, Baden-Baden 2002, pp. 497-501, here: Decision No. 1: Enhancing the OSCE's Efforts to Combat Trafficking in Human Beings, pp. 497-499, p. 498.

cepting the conditions that he had rejected after the Special Representative of the OSCE PA in Vienna had assured him that her visit was not a formal inspection. Her task was rather to collect information to use in her report to the PA. He also noted that the report and the discussions likely to follow it would record that it took the insistence of the Assembly to enable foreign parliamentarians to first visit the camp, and that the conditions imposed by the US government would be described in detail. The report was presented at the Annual Session in Brussels in July 2006 and was prominently reported in the media. The Special Rapporteur on Guantanamo made recommendations to the US government for the closure of the camp as soon as possible, but also called for strengthened co-operation between intelligence agencies.

#### *OSCE Prize for Journalism and Democracy*

The OSCE Prize for Journalism and Democracy was established on the initiative of the first OSCE Representative on Freedom of the Media, Freimut Duve, and is awarded annually by the OSCE PA.<sup>16</sup> During the 2001 Annual Session, a highly moving ceremony took place in which the posthumously awarded prize was presented to the widows of the murdered journalists Georgiy Gongadze (Ukraine) and José Luis López De Lacalle (Spain, murdered by ETA). The PA was of course deeply shocked by the murder in 2006 of Anna Politkovskaya (Russia), considering her murder as a sign of the situation faced by many journalists within the OSCE area. Politkovskaya had been awarded the prize in 2003 for her courageous reports from Chechnya. In October 2006, PA Secretary General Oliver attended her funeral on behalf of the OSCE. The other recipients of this prize in the time covered by this contribution have been:

- 1999 Christiane Amanpour (UK)
- 2000 Andrei Babitsky (Russia)
- 2002 Friedrich Orter (Austria) and Pavel Sheremet (Belarus)
- 2004 Committee to Protect Journalists (USA)
- 2005 Ukrainian Channel 5 television.

#### *Outlook*

Although this contribution has of necessity only been able to touch briefly upon many topics, I hope it has made clear just how varied and, in some

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16 Cf. Christian Möller, Press Freedom in the OSCE Area and the Activities of the Media Representative, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 323-336, here: pp. 333-334.

cases, detailed the activities of the PA are within the OSCE. To give but a single example: The intensive activities of the Swedish PA President Göran Lennmarker as Special Representative on the Nagorno-Karabakh Conflict are enough by themselves to justify a separate contribution examining closely their effect on the process of *détente* between the sides. Ensuring that this depiction remains honest, however, also requires the following: In the Assembly's significant and – in themselves – successful activities, there is frequently too little systematic follow-up. With the latest amendments to the PA Rules of Procedure, a step has been taken to remedy this by tasking the Vice-Chairs of the three General Committees with follow-up activities. Following earlier initiatives such as the creation of the post of Representative on Freedom of the Media and activities on combating anti-Semitism and trafficking in human beings mentioned above, there has also been a successful initiative to launch a discussion on “new minorities”. The High Commissioner on National Minorities (HCNM) included this topic on his agenda and initiated, at the request of the PA, a study into how much the experience he has gathered so far is relevant to the integration of immigrants. The HCNM presented this report at the Brussels Annual Session, which was hailed in an official statement<sup>17</sup> by the Turkish Mission in Vienna as an especially significant achievement, and it was welcomed by many participating States on the occasion of the HCNM's last report to the Permanent Council.

In these, and similar initiatives, a lot depends upon the national parliaments. They need to provide their delegations with appropriate support, because the small and very effective PA Secretariat can hardly increase the enormous effort it already makes. At the same time, the PA needs to focus harder on selected issues and to engage directly with the items on the agenda of the OSCE executive. Despite repeated calls for restraint by the PA leadership, the Assembly's resolutions still cover too many issues. Finally, the national delegations – and not only the delegates, but above all also the support structures – could make far more use of the rich array of instruments that stands available for them in Vienna. Requesting information from the Office in Vienna or calling in when spending time in Vienna or just passing through can provide an excellent opportunity to gather information or make proposals.

Ideally, both sides should make use of the indisputable advantages the PA offers for their work: Parliamentarians do not need to reach agreement or seek the approval of their capitals before they can express their opinions. Their unconventional thoughts – which are often desperately needed to set stalled processes back in motion – do not create binding obligations. For the same reason, their work is not restricted to day-to-day politics. In an organization that should be willing to think the unthinkable in its preventive strategies, and whose consensus principle instead creates the necessary temperatures to keep conflicts frozen forever, both of these are of inestimable value.

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17 In the session of the Contact Group with the Mediterranean Partners of 21 July 2006.



## A Unique Mandate<sup>1</sup>

*The OSCE Representative on Freedom of the Media*

### *Introduction*

Since the start of the Helsinki Process, the OSCE<sup>2</sup> has taken a comprehensive approach to European security. Alongside politico-military and economic cooperation, the 1975 Final Act of Helsinki already included questions of human rights in the so-called third basket – the human dimension – and explicitly mentioned freedom of opinion and the media. While the focus initially lay on improving journalists' working conditions and enabling communication across the boundaries of political systems, monitoring compliance with the principle of media freedom became a key field of OSCE activity with the creation of the position of OSCE Representative on Freedom of the Media in 1997. Other international organizations such as the Council of Europe and various NGOs also pursue an approach that supports the creation of a free press as a necessary foundation for stable state structures and free civil societies. In the view of all these organizations – including the OSCE – media freedom is relevant to stability and the preservation of peace.

Security and peace in democratic societies depend upon compliance with the principles of the rule of law, functioning state institutions, and an informed civil society. The press has a critical role in several respects: On the one hand, it possesses a corrective function that makes it a vital check on the exercise of power. Today, this no longer only applies with regard to governments, but also corporations, interest groups, and other collective actors. At the same time, political opinion forming assumes that the population has access to information: A free press is therefore a cornerstone of civil society.

Nevertheless, the scholarly literature on the OSCE Representative on Freedom of the Media consists merely of a handful of papers and articles, two of which have appeared in previous editions of the OSCE Yearbook.<sup>3</sup>

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1 The opinions expressed in this contribution are those of the author alone.

2 For convenience' sake, where the text refers to the CSCE/OSCE as a whole, the terms "OSCE" and "Organization" will be used to stand for "CSCE/OSCE" and "Conference/Organization". Where any ambiguity remains, the full form will be used.

3 Significant works include: Dušan Reljić, The OSCE Representative on Freedom of the Media, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2001*, Baden-Baden 2002, pp. 377-386; Christian Möller, *Presse- und Medienfreiheit im OSZE-Gebiet: Mandat, Möglichkeiten und Aktivitäten des Beauftragten für Medienfreiheit der OSZE* [Freedom of the Press and of the Media in the OSCE Area; Mandate, Possibilities, and Activities of the OSCE Representative on Freedom of the Media], Kiel 2002; Christian Möller, The Mandate, Possibilities and Activities of the OSCE Representative on Freedom of the Media, in: Victor-Yves Ghebali et al.

Areas requiring further examination include the structural significance of a free press within the human dimension for security policy, preserving peace, conflict prevention, and post-conflict rehabilitation.

### *The Importance of Press and Media Freedom for Civil Society and Human Security*

The human right to freedom of expression is codified in several documents, including the Universal Declaration of Human Rights (Article 19), which was adopted by the General Assembly of the United Nations on 10 December 1948 in its resolution 217 A (III), and the International Covenant on Civil and Political Rights (ICCPR; Article 19), adopted on 16 December 1966. Further sources include the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), passed by the Council of Europe on 4 November 1950, which deals with Freedom of Expression in Article 10. In the course of the development of the OSCE, too, it became clear just how important the human dimension – which was characteristic of the Organization's comprehensive approach to security – was for the overall goals of the OSCE.

While the kind of attention paid to press and media issues has varied during the history of the OSCE, the media itself is increasingly undergoing change. In different stages of state development, the media takes on different roles. For one thing, it is an important branch of the economy. This is particularly evident in the transition states of the former Eastern Bloc. Formerly state-owned media, some of which played a key role in the revolutions in the late 1980s and early 1990s, were privatized during the transition process and now have completely different tasks to perform.<sup>4</sup> One question that arises here concerns what regulations are necessary to ensure a functional marketplace of ideas and the extent to which actors in the field of security policy can play a role in the transformation process.<sup>5</sup>

The internet can be a means of providing non-discriminatory access to networks and information, but may also be used to censor oppositional

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(eds), *The Future of the OSCE in the Perspective of the Enlargements of NATO and the EU*, PSIO Occasional Paper 1/2004, pp. 123-145; Christian Möller, Press Freedom in the OSCE Area and the Activities of the OSCE Media Representative, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 323-336.

4 Cf. e.g. Barbara Thomass/Michaela Tzankoff (eds), *Medien und Medienpolitik in den Transformationsgesellschaften Ost- und Südosteuropas* [Media and Media Policy in the Transformation Societies of Eastern and South-Eastern Europe], Opladen 2001.

5 Cf. Christian Möller/Alexandra Popescu, Transformationen des Journalismus: Über die Implementierung des Prinzips Unabhängigkeit in osteuropäischen Staaten seit 1989 [Transformations of Journalism: On the Implementation of the Independence Principle in Eastern European States since 1989], in: Freimut Duve/Michael Haller (eds), *Leitbild Unabhängigkeit: Die publizistische Verantwortung in der Mediengesellschaft* [Pursuing Independence: Journalistic Responsibility in the Media Society], Konstanz 2004.

voices. For instance, the media NGO Reporters Without Borders (RWB) has reported examples of state-controlled internet service providers blocking access to websites of government-critical independent media organizations in states in the OSCE region.<sup>6</sup>

A number of studies also reveal a direct connection between the level of corruption and the degree of press and media freedom.<sup>7</sup> Especially, but not only, in the transition states of Eastern Europe, South-eastern Europe, the Caucasus, and Central Asia, corruption and the abuse of power impede the emergence of the rule of law and economic development, thereby threatening social stability. Aside from its importance as an inalienable human right, there are also concrete economic and security-related arguments for the necessity of a free press.

### *The Mandate of the Media Representative*

2006 is the ninth year in which the Representative on Freedom of the Media has carried out his work in the OSCE area. The mandate of the youngest of the three independent OSCE institutions was adopted in November 1997 and the Office opened in Vienna in January 1998. The Representative on Freedom of the Media thus joined the Office for Democratic Institutions and Human Rights and the High Commissioner on National Minorities as the third institution to be established by the OSCE participating States with a unique degree of independence for an international governmental organization.

On taking office, Freimut Duve, the first Media Representative acknowledged that this institution would not have been possible without the Helsinki Process and the unique history of the OSCE in Europe:

When the OSCE became the first United Nations regional organization to establish an office for freedom of the media with interventionist powers, this was only possible thanks to the unique story of Helsinki. Without *Solidarność*, without Alexander *Solshenyzin*, without Václav *Havel*, without the thousands of nameless authors, many of whom were still being sentenced to prison as late as the 1970s, this willingness to support supranational monitoring of press freedom is impossible to understand.<sup>8</sup>

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6 Cf. Reporters Without Borders, *2006 Annual Report*, at: [http://www.rsf.org/article.php3?id\\_article=17177&Valider=OK](http://www.rsf.org/article.php3?id_article=17177&Valider=OK).

7 Cf. Aymo Brunetti/Beatrice Weder, *A Free Press is Bad News for Corruption*, Wirtschaftswissenschaftliches Zentrum der Universität Basel, WWZ Discussion Paper No. 9809, Basel 1998.

8 Freimut Duve, Medienfreiheit organisieren. Ein Amt für Pressefreiheit in der OSZE [Organizing Media Freedom. An Office for Press Freedom in the OSCE], in: *Internationale Politik* 5/2001, pp. 37-42, here: p. 37 (author's translation; emphasis in original).

The 1997 mandate established two main fields of activity for the Media Representative: assistance and monitoring. In addition, the participating States that agreed the mandate restated their dedication to all existing commitments to press freedom. Starting with the Helsinki Final Act, many such commitments were adopted, to which all OSCE States, regardless of their culture, geography, history, or economic situation would be held.

Under “assistance”, the mandate covered such practical matters as training, workshops and conferences for journalists, publications, recommendations, and support for the legislative processes and legal reviews.

Under “monitoring”, the Representative was authorized to maintain an informal network of NGOs, media organizations, journalists, and other watchdog organizations in all 56 states in the OSCE area.

In March 2004, Miklós Haraszti of Hungary took up the position of Representative.

### *Statistics*

In the first eight years of its existence, the Office of the Media Representative made 370 public interventions in cases of violations of OSCE principles on press freedom (figure 1). While the number of interventions varied from year to year, there were never fewer than 30. By averaging 3.9 interventions per month, the Office of the Media Representative demonstrates that, despite its small size, it is a highly active component of the OSCE.

There are several reasons, however, why these figures do not cast any light on the overall situation regarding press freedom in the OSCE region. For one, the Media Representative cannot intervene every time press freedom is violated in the OSCE area. For instance, the total number of violations in 1999-2000 alone was 754.<sup>9</sup>

Furthermore, the interventions mentioned here are only those that took place in the public eye and were officially recorded in the Media Representative’s Yearbook. In many other cases, the Media Representative intervenes behind the scenes by negotiating bilaterally with individual participating States. As well as taking advantage of the opportunity his position presents to criticize infringements of press freedom in front of a wide audience, the Media Representative has also made use of “silent diplomacy”, for instance, by commenting on proposed legislation, or in the campaign for the decriminalization of libel and slander.

The numbers given in figure 1, therefore, show only serious infringements that required robust public intervention.

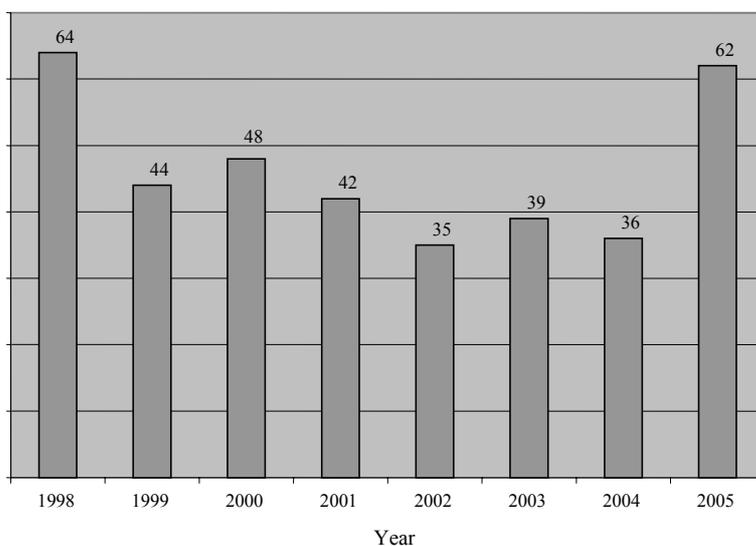
It should also be noted that, despite some ups and downs in numbers, there is no sign of a downwards trend – demonstrating that there is no guar-

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9 Cf. International Press Institute (IPI), in: *OSCE Representative on Freedom of the Media, Yearbook 2000/2001*, Vienna 2001, p. 184

antee of press freedom everywhere even within Europe's 56 self-declared democracies.

Figure 1 – Interventions per Year  
(370 in total)



*RFOM Interventions 1998-2005. Source: OSCE Representative on Freedom of the Media (ed.), Freedom and Responsibility: Yearbooks of the Representative on Freedom of the Media 1998-2005, Vienna 1998-2005.*

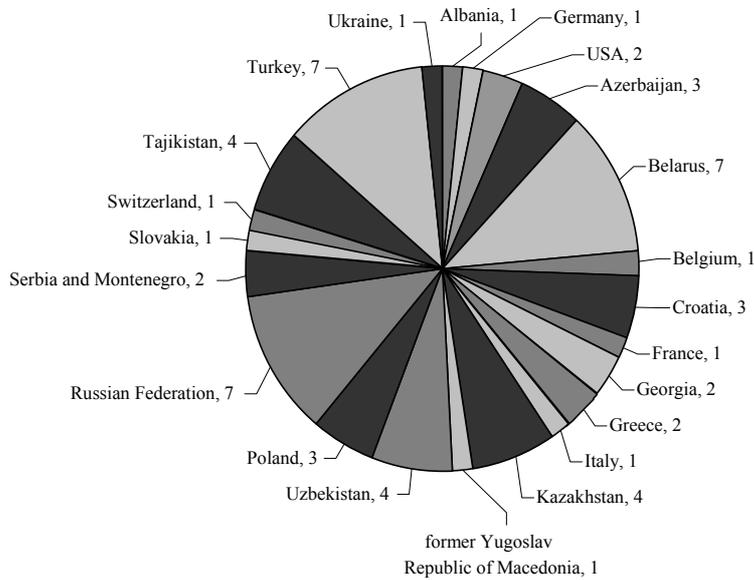
In 2005, there were 62 interventions, divided among 22 states<sup>10</sup> throughout the OSCE region. As in previous years, the empirical data contradicts accusations that the Media Representative applies geographically determined double standards by focusing solely on countries East of Vienna, as shown in figure 2.

One thing the graph does not show is the variety among the interventions. The means of intervention are determined above all by the type of infringement. While, in the case of mistreatment or unjustified detention of a journalist or the closure of a newspaper, a concerted high-profile campaign of protest may put pressure on the governments involved and – as has occurred in several cases – can lead to the release of a journalist from prison, or at least

10 Albania, Azerbaijan, Belarus, Belgium, Croatia, France, Georgia, Germany, Greece, Italy, Kazakhstan, the former Yugoslav Republic of Macedonia, Poland, the Russian Federation, Serbia and Montenegro, Slovakia, Switzerland, Tajikistan, Turkey, Ukraine, the USA, Uzbekistan, and three interventions in relation to the International Criminal Tribunal for the former Yugoslavia (ICTY).

the exchange of prison for exile, in other cases, bilateral discussions with the government of the country in question are the more appropriate means.

*Figure 2 – RFOM Interventions 2005  
(59 in total)*



In choosing the means of intervention, the Media Representative can select from a range of graduated instruments, which, however, need not be applied according to the escalatory principle. These include the option of raising a current issue of interest in the Permanent Council at any time, press releases and press conferences, open letters, legal opinions, visits to the country in question, country reports, and indeed any and all other appropriate means on a case-by-case basis.

Besides intervening in specific cases, the Media Representative pursues long-term strategies in various areas that aim to secure the freedom of the media in the OSCE area in the long run. Some of these longer-term projects are profiled in the following sections.

#### *The Media in Conflict Situations in the OSCE Area*

In conflicts or situations characterized by ethnic tension, the media has a special role to play in several regards.

While free, independent, and balanced reporting may contribute to stopping or at least limiting the escalation of conflicts or ethnically motivated violence, there is also a danger that the responsibility that comes with press freedom will be abused. Ethnic propaganda or nationalistic agitation in the media may cause conflicts to escalate or impede the work of post-conflict rehabilitation. By finding three journalists from the Rwandan radio station RTLM guilty of participating in genocide and incitement to genocide, the ruling of the UN International Criminal Tribunal for Rwanda demonstrated the role that the media may be said to play in conflicts.<sup>11</sup> In April 2004, the OSCE Media Representative published a report on the role of the media in the violence that rocked Kosovo that March. He concluded that “without the reckless and sensationalist reporting on 16 and 17 March, events could have taken a different turn. They might not have reached the intensity and level of brutality that was witnessed or even might not have taken place at all.”<sup>12</sup>

By contrast, in other conflicts, the new media have proved an important means of organizing opposition and resistance. In 1999, for example, during the Kosovo conflict, the B92 radio station, which had been closed down by the Milošević regime, reached a global online audience with the help of a Dutch internet service provider. It became one of the few sources of independent information from Belgrade after journalists from NATO states had been expelled.

The media’s role in publicizing and representing conflicts are also of considerable importance for actors in the field of security policy. The Vietnam War was not the first time that reporting was important for the international perception of a conflict. Reporting may even have helped to ensure the deployment of international peacekeeping forces, with images of internment camps in Bosnia contributing to the dispatch of UNPROFOR, later replaced by IFOR and SFOR.<sup>13</sup>

### *The Media in Transition States*

During the last 15 years, the media landscapes in the states of Eastern Europe have undergone a substantial transformation. They played a crucial role in the peaceful transfer of power in the late 1980s. During the political transformation and economic development of these states, the media has also gone from

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- 11 Cf. e.g. Sharon LaFraniere, Court Finds Rwanda Media Executives Guilty of Genocide, in: *New York Times*, 3 December 2003, at: <http://www.nytimes.com/2003/12/03/international/africa/03CND-RWAN.html?position=&ei=5007&en=9ab11b1d2f99127b&ex=1385874000&partner=USERLAND&pagewanted=print&position=>. A critical view is given by Brendan O’Neill, Writing an article is not the same as using an Uzi, in: *Spiked Online*, 9 December 2003, at: <http://www.spiked-online.com/Articles/00000006E009.htm>.
  - 12 OSCE Representative on Freedom of the Media, *The Role of the Media in the March 2004 Events in Kosovo*, at: [http://www.osce.org/documents/rfm/2004/04/2695\\_en.pdf](http://www.osce.org/documents/rfm/2004/04/2695_en.pdf).
  - 13 Cf. George Kennedy, Desinformation der Medien führte zur Intervention in Bosnien [Media Disinformation led to Intervention in Bosnia], in: *Novo* 27/1997, pp. 26f.

being dominated by organs of the state to become a collection of privatized corporations. In addition, in recent years, investment in Eastern Europe by foreign media companies has grown, especially in the area of print media, but also in radio and television.

Despite privatization, liberal media laws, and economic competition, serious problems may be discerned in several countries with regard to the independence of the media, the variety of opinion, and the high standards of objectivity required. There are a range of reasons for this, and the situation differs markedly from state to state. While carrying out a survey into the effects of media concentration on professional journalism, the Office of the OSCE Media Representative carried out numerous interviews with newspaper editors, representatives of journalists' organizations, academics, and NGOs. These revealed some of the reasons for the ongoing problems with press freedom.<sup>14</sup>

The media played a fundamental role in the collapse of communist governments in Eastern Europe. Reporting of mass demonstrations in Leipzig, scenes of fights between students and the police on the streets of Prague, and pictures of protests in Bucharest helped to accelerate and strengthen the sense that change was imminent.<sup>15</sup> Yet the role of the media as a system-critical force and defender of free opinion seems to have changed considerably during the last decade.

After the collapse of communism, state-owned industries throughout the planned economies of the former Eastern Bloc began to be privatized; this included newspapers and magazines. Members of the government or those close to them were often given a first chance to appropriate the most attractive enterprises, vying in this regard with Western companies.

Characteristic of the Eastern European transformation states and a curious continuity at first glance is the survival in some countries of the most important daily newspapers from the communist period. These publications secured their continued existence by transforming themselves overnight to offer a variety of opinions and ideas that would meet their populations' needs for free expression. In doing so, they often adopted a populist and militant tone that created the illusion of a substantive new press. Even if various political viewpoints and topics that had been taboo in the communist period were now given a voice, the prevailing tone did not differ much from the partisan voice of the communist press.<sup>16</sup> While the arrival of journalistic sensationalism meant that this mode of presentation lost some ground, even now, the media landscape still tends to be characterized by a mixture of sensationalism and partisanship. Journalistic practice gives the impression of journalism as first

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14 Johannes von Dohnanyi/Christian Möller, *The Impact of Media Concentration on Professional Journalism*, OSCE Representative on Freedom of the Media, Vienna 2003, at: [http://www.osce.org/publications/rfm/2003/12/12244\\_102\\_en.pdf](http://www.osce.org/publications/rfm/2003/12/12244_102_en.pdf).

15 Cf. John Horvath, The Changing Face of the Mass Media in Eastern Europe, in: *Telepolis*, 6 June 1997, at: <http://www.heise.de/tp/english/inhalt/reg/1214/1.html>.

16 Cf. Mihai Coman, *Mass Media in Romania post-comunista*, Iași 2003, p. 73.

and foremost a political act rather than a service based on the gathering and presentation of information.<sup>17</sup>

After years of censorship and indoctrination, the path to the establishment of public opinion and the institutionalization of the mass media as a fourth estate is certainly long and difficult. What is clear is that, whatever the starting point of a reforming state, the emergence and promotion of public opinion is an essential precondition for a successful transformation process. In this connection, mass media – as the most important institution for the creation of public discourse – is a motor for the democratization of a society.

Nor has the development of a largely independent press always been without problems in Western democracies. One need only think of the *Spiegel* affair in Germany in 1962. However, here the solidarity among journalists, the reaction of the public, and finally the courts acted as a corrective to overzealous executives. Nevertheless, this is only possible when journalists are well trained, aware of both their rights and their responsibilities, and capable of a high standard of investigative journalism.

Only the interplay of economic security in a market economy and a functioning judicial system, guaranteed editorial independence, and thorough training can form the foundation for a free and independent press and plurality of opinion – not only in the transformation states of Eastern Europe.

### *Libel and Defamation*

In many states in the OSCE region in which censorship officially does not exist, governments nonetheless attempt to exert pressure on the media and individual journalists. This “structural censorship” amounts to indirect restrictions by state authorities on the free activity of the media; it has often come to replace direct censorship by a state censoring agency. At all levels – local, regional, and national – the state has a plethora of instruments that it can use to influence journalists: control of printing infrastructure, distribution networks, property rents, fire regulations, pressure on pro-government enterprises only to advertise in chosen media or to withdraw their advertisements if a government-critical line is taken. The list can be continued indefinitely: the closure of private printing operations, sudden inspections by the financial authorities, discrimination in awarding licences, etc.<sup>18</sup>

All these methods amount to censorship while presenting the appearance of legitimate official actions. The difference between justified acts and

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17 Cf. Ray Hiebert, *Transition: From the End of the Old Regime to 1996*, in: Jerome Aumante et al., *Eastern European Journalism: Before, During and After Communism*, Cresskill 1999.

18 Cf. Reljić, cited above (Note 3), p. 384.

arbitrary repressive measures can only be established via the assessment of various sources on site.<sup>19</sup>

Libel and defamation suits are another favoured instrument for reprimanding “troublesome” media. They are brought mostly by politicians or government officials who feel that their honour has been insulted or their personal rights infringed by reporting that is critical of their actions.

While it is not possible to categorically exclude the possibility of government representatives being libeled in press reports, individuals occupying positions that place them in the public eye need to develop a greater degree of tolerance of what is reported in the media, especially since much of it is directed not at them personally but at the way they have performed their official functions. This kind of criticism of government actions is indispensable for the fulfilment of the corrective function of the press.

If the state chooses to abuse the relevant legislation, just the threat of large fines can be enough to cause self-censorship, while successful prosecution may even result in bankruptcy. Because media products are also commodities, their producers – except when acting according to purely political motives – have an interest in ensuring that they turn a profit. Media self-censorship is a difficult topic, as it is extremely difficult to tell from outside when editorial decisions made in the heads of journalists are influenced by fear of possible repression, whether by the publishers or the authorities, which is often exacerbated by low income or inadequate social provision.

In many states in Eastern Europe (but not only there) in which a tendency towards the increasing “tabloidization” of the mass media can be seen – perhaps as a result of the competition for the highest readership figures – it must be asked whether it is really the readers that are tired of political journalism, or rather the journalists and the press themselves. In other words “What is to be done when they decided that obedience is the editorial policy? When the media agenda slides further and further away from the public agenda? When street protests get only a fraction of the coverage that a car crash gets?”<sup>20</sup>

Naturally, the answers to these questions are partly determined by the prevailing economic and political conditions. If the consequence of printing a critical article is a crippling fine or even a prison sentence for defamation handed down by a court, it is hard to accuse a journalist of self-censorship.

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19 Cf. Christian Möller, *Press Freedom in the OSCE Area and the Activities of the OSCE Media Representative*, cited above (Note 3), p. 328.

20 Ioana Avadani, “Mooning” the Romanian Media, in: von Dohnanyi/Möller, cited above (Note 14), pp. 175-179, here: p. 178.

In the second half of the twentieth century, starting with the establishment in the USA of ARPAnet in the 1960s and, more especially, the development of the World Wide Web in 1993, the internet developed into a comprehensive global communication network of ever-growing importance, enabling the exchange of information across national boundaries. It is of the very nature of the internet that it is not restricted to a single use. Communication between individuals, buying and selling, the distribution of news, and education (e-learning) are just some of the possible current uses, while others – such as e-government – are still to come. The internet can promote the development of new forms of media or publications without high start-up costs acting as a barrier to market entry, and this could enable the emancipation of post-totalitarian media systems and the creation of transnational media groups.

At the same time, a small portion of this platform is also used to spread illegal and “undesirable” material, such as racist or other propaganda and hate speech, and these have the potential to escalate conflicts. The integration of security-critical areas into global networks creates another horizon of danger. In asymmetrical conflicts, in particular, cyberterrorism, which attacks the network architecture itself, can pose a danger to security and functioning infrastructures.

In 2003, at the World Summit on the Information Society (WSIS) in Geneva – which next convened in 2005 – the UN dealt comprehensively for the first time with the complex of issues around the information society. In 2004, the OSCE looked into the topic of possible connections between violent crime and internet propaganda and sedition, organizing a conference in Paris, among other events. The Media Representative released his first recommendations on this topic – the Amsterdam Recommendations – in 2003. He also published a comprehensive guide: the “Media Freedom Internet Cookbook”.<sup>21</sup>

As the decentralized and, in principle, free infrastructure of the internet has grown, so have the efforts of governments, international organizations, corporations, and other actors to regulate or even censor both access and the dissemination of content. On the one hand, there is competition between various regulatory models, as attempts are made to adapt them from conventional media. On the other, new instruments are being developed specifically for the internet: A number of international actors are currently pursuing a range of – sometimes contradictory – approaches to regulating and hence shaping the media landscape of the future. These include the EU and its institutions, with the Information Society and Media Directorate-General and

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21 Cf. Christiane Hardy/Christian Möller (eds), *Spreading the Word on the Internet. 16 Answers to 4 Questions*, OSCE Representative on Freedom of the Media, Vienna 2003; Christian Möller/Arnaud Amouroux (eds), *The Media Freedom Internet Cookbook*, OSCE Representative on Freedom of the Media, Vienna 2004.

Safer Internet Action Plan; the Council of Europe, with various directives (e.g. the Cybercrime Convention); and the lawmakers of individual states.

In this connection, it is important to analyse the opportunities that international actors possess, and the activities they undertake. In order to do this, it is also necessary to consider the influence and consequences of technical standardization of the infrastructure and the “politics of code”<sup>22</sup> on the scope of the regulatory decision making carried out by international actors. In this field of policy, technological developments create potential regulatory facts. Linking basic technological developments – as well as relevant legal norms and international agreements – with their significance for societal developments, and the consequences for freedom of opinion and freedom of information – and hence for the human dimension in modern communications infrastructures – is a new interdisciplinary research paradigm. The Media Representative continues to pursue this aspect of “internet governance” within the scope of his internet activities during 2006.

### *Tolerance*

What became known as the “Cartoon Controversy” – the furore caused by the caricatures of Mohammed in the Danish newspaper *Jyllands Posten* – is determining a significant proportion of the Media Representatives’ agenda in 2006. Several conferences have been organized to discuss the topic, and it has been discussed by the Permanent Council. Finally, the Supplementary Human Dimension Meeting, held in Vienna in July, also made this one of its agenda items.

Following the publication on 30 September 2005 of several drawings depicting the prophet Mohammed, complaints were first received by the Danish prime minister from several ambassadors of Muslim countries on 20 October. At that point, however, there were no further protests.

In early 2006, Danish Imams then took a dossier of these and other cartoons on a lecture tour of the Middle East. As knowledge of the cartoons spread, there were violent protests, and calls for boycotts of Danish and other Western products; demands were also issued that the Danish government apologize. The Danish government even felt the need to deny that copies of the Koran were being burned openly in Copenhagen, the prime minister commenting that “there has been no burning of the Quran in Denmark. If any person attempts to do so the police authorities will react immediately”.<sup>23</sup>

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22 Cf. Lawrence Lessig, *Code and Other Laws of Cyberspace*, New York 1999. See also: Proceedings of the conference “The Politics of Code – Shaping the Future of the Next Internet” held on 6 February 2003 by the Programme in Comparative Media Law and Policy at Oxford University, at: <http://pcmlp.socleg.ox.ac.uk/code/>.

23 Prime Minister Anders Fogh Rasmussen’s Opening Statement at the Press Conference on 7 February 2006, at: <http://www.um.dk/en/servicemenu/news/primeministerandersfoghrasmussensopeningstatementinenglishatthepressconferenceon7february2006.htm>.

This last story could be an indication that it was not the irresponsible use of press freedom but rather a shortage of objective information and the deliberate propagation of rumours that were the key triggers for the violent protests.<sup>24</sup>

Other newspapers reprinted the cartoons, leading to a hard-fought discussion of whether press freedom is an absolute right or, if not, where the limits of responsible use of this right might lie.

The Danish government repeatedly stated that it was not responsible for the printing of the cartoons and was consistent in refusing to apologize. In addition, the decision on the legal propriety of the publication lay in the hands of the Danish courts and not the government.<sup>25</sup>

Nonetheless, one can see here a movement towards attempting to balance the two fundamental rights of media freedom and freedom of religion. This often culminates in assertions that the press has responsibility not to publish certain content.

Critics of this position, on the other hand, note that any attempt to balance freedom of opinion and expression with other rights is also at the same time a restriction of freedom of opinion and expression. This is not excluded *per se*, and is possible in exceptional circumstances, and explicitly provided for, for instance, in Article 10 of the European Convention on Human Rights (ECHR). However, it must be justified, necessary, and appropriate.

Nevertheless, voluntary self-regulation by means of professional organizations, press councils, or codes of conduct is to be preferred to interventions by the state in the freedom of the press.

The Media Representative took up this topic several times. In his regular report to the Permanent Council, he concluded that “we believe that the necessary growth in respect for other cultures does not require the passing of new legislation to regulate media activity”.<sup>26</sup>

Finally, we should note that the only real proof of press freedom is in relation to problematic content. While uncontroversial content that raises no one’s ire has little need of protection, it is precisely controversial topics that show the effectiveness of measures to protect press freedom.

This is confirmed by the European Court of Human Rights in its rulings: “Freedom of expression constitutes one of the essential foundations of such a society, one of the basic conditions for its progress and for the development of every man. Subject to paragraph 2 of Article 10 (art. 10-2), it is applicable not only to ‘information’ or ‘ideas’ that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the de-

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24 Cf. CNN, *Protesters burn Consulate over Cartoons*, 5 February 2006, at: <http://edition.cnn.com/2006/WORLD/asiapcf/02/05/cartoon.protests/>.

25 Although *Jyllands Posten* did apologize, this was not deemed sufficient by many Muslims.

26 OSCE Representative on Freedom of the Media, *Regular Report to the Permanent Council*, 16 February 2006, at: [http://www.osce.org/documents/rfm/2006/02/18074\\_en.pdf](http://www.osce.org/documents/rfm/2006/02/18074_en.pdf).

mands of that pluralism, tolerance and broadmindedness without which there is no 'democratic society'.<sup>27</sup>

### *Commitments*

The opportunities offered to the Media Representative on the basis of the Helsinki Process, the declarations of the Summit and Ministerial Meetings, and his mandate – which is based upon these earlier documents – represent a unique proposition within the international community. No international organization in Europe unites so many states in such detailed commitments to human rights and freedom of opinion and expression.

The diplomatic and political weight of the Media Representative stands and falls with the importance the participating States ascribe to the OSCE as a whole. On top of that, there are voices within the Organization that see an imbalance, an overemphasis on the human dimension of the third basket. They are calling for a stronger focus on the economic dimension.

The added value over and above other international security organizations that the comprehensive approach incorporating the human dimension offers can only bring results if the participating States put into practice the commitments they have entered into. The extent to which they will do this, only time will tell. So far, however, freedom of the media does not represent a success story.

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27 *Handyside v. the United Kingdom*, ECHR judgment of 7 December 1976.

## From the Inside Out: The Role of Organizational Change and Capacity Building in the Promotion of Gender Equality in the OSCE<sup>1</sup>

### *Introduction*

In 1995, 189 governments and more than 5,000 representatives from 2,100 non-governmental organizations took part in the “Fourth World Conference on Women: Action for Equality, Development and Peace” in Beijing.

The principal themes of the conference were the advancement and empowerment of women in relation to women’s human rights, women and poverty, women and decision-making, the girl-child, and violence against women. The conference resulted in two key documents: the Beijing Declaration and the Platform for Action.

The overriding message of the Fourth World Conference on Women was that the issues addressed in the Platform for Action are global and universal. Deeply entrenched attitudes and practices, in all parts of the world, perpetuate inequality and discrimination against women, in public and private life. Accordingly, implementation requires changes in values, attitudes, practices, and priorities at all levels. The conference signalled a clear commitment to international norms and standards of equality between men and women; that measures to protect and promote the human rights of women and girl-children must, as an integral part of universal human rights, underlie all action; and that institutions at all levels must be reoriented to expedite implementation. Governments and the UN agreed to promote gender mainstreaming in policies and programmes.<sup>2</sup>

At the policy level, the participating States of the OSCE have made clear their commitment to gender equality and recognized that the full and equal exercise by women of their human rights is essential to achieve a more peaceful, prosperous, and democratic OSCE area. Through the OSCE Action Plan for the Promotion of Gender Equality adopted at the Sofia Ministerial Council in 2004, the OSCE also demonstrated a critical awareness that “gender issues” are not simply external concerns to be addressed within the participating States, or through the OSCE’s programmatic work. Rather, gender issues permeate the Organization itself and it is only by addressing both external and internal issues in tandem that the OSCE can move forward in pro-

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1 The views expressed in this contribution are made in a personal capacity and do not necessarily reflect the views of the OSCE.

2 For more information about the Beijing Conference, outcome documents and follow up, see <http://www.un.org/womenwatch/daw/beijing/platform/>.

moting gender equality. In other words, gender mainstreaming is an inside-out process.

While the manifestations of gender inequality within the OSCE region are rife, and the OSCE seeks to address these through the gender mainstreaming of OSCE policies, programmes, and activities, as well as through the participating States, this contribution will focus on “internal” issues and the Organization’s capacity for gender mainstreaming. It will briefly present gender mainstreaming as a strategy to achieve gender equality, and describe the policy framework for gender mainstreaming in the OSCE. Then it will outline key areas of concern within the Organization with respect to the promotion of gender equality. Finally, it will examine the importance of organizational change in the process of gender mainstreaming, as well as some of the challenges currently facing the OSCE.<sup>3</sup>

### *Gender Mainstreaming as a Strategy to Achieve Gender Equality*

When governments across the world signed the Beijing Platform for Action (PfA) in 1995, they were endorsing a policy to promote gender equality and empower women. Gender mainstreaming was identified as the most important mechanism for achieving the ambitious goals laid out in the PfA. Following the lead set in Beijing, in 1997, the UN adopted gender mainstreaming as the approach to be used in all policies and programmes in the UN system. Throughout the next decade, governments and civil society organizations across the world have sought to implement the PfA – and in so doing to develop successful gender-mainstreaming policies, strategies, and methodologies.<sup>4</sup>

What exactly is gender mainstreaming? The definition of gender mainstreaming adopted by the OSCE in the 2004 Action Plan for the Promotion of Gender Equality is “the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender

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3 Although the focus of this contribution is on “internal” issues, it should be noted that there are external factors which can affect these. For example, in relation to recruitment, the OSCE cannot take sole responsibility for the statistics on gender balance, as the OSCE relies on participating States for nominations for seconded posts. Accordingly, under the 2004 OSCE Action Plan for the Promotion of Gender Equality, participating States are encouraged to nominate more qualified women candidates for positions in the OSCE, and particularly for higher-level positions.

4 Cf. Caroline Moser, Has Gender Mainstreaming Failed? In: *International Feminist Journal of Politics*, 4 December 2005, pp. 576-590, here: p. 576.

equality.”<sup>5</sup> Most definitions of gender mainstreaming adhere closely to this definition set out by the UN Economic and Social Council in 1997.<sup>6</sup>

The term “gender mainstreaming” has become a mantra in international institutions as a technique for responding to inequalities between women and men. The idea behind gender mainstreaming is that questions of gender must be taken seriously in central, mainstream, “normal” institutional activities and not simply be left in a marginalized, peripheral backwater of specialist women’s institutions.<sup>7</sup>

The concept, at its core, is a simple one; the process of implementing it, however, has proved to be difficult and cumbersome. This is due, at least in part, to the fact that while the definition of gender mainstreaming tells us what to do, and there is vast literature justifying the need for it to be done, there is no one, universal set of indicators that measure success in this area. According to Caroline Moser, progress in gender mainstreaming can usefully be discussed in terms of four related stages: first, embracing the terminology of gender equality and gender mainstreaming; second, getting a gender mainstreaming policy into place; third, implementing gender mainstreaming in practice; and fourth, evaluating or auditing the practice of gender mainstreaming.<sup>8</sup> How does the OSCE fare according to these criteria? The answer is somewhere on the spectrum between “great” and “awful”. The terminology and policy are in place, but in practice results have been limited. Why is this? The “usual suspects” can be cited here: lack of human and financial resources, lack of skills, lack of political will. The chorus is nothing new.

In truth, almost a decade of gender mainstreaming practice has revealed its limited impact. Although it has not been difficult to encourage the adoption of the vocabulary of mainstreaming, there is little evidence of monitoring or follow up. A constant problem for all the organizations that have adopted gender mainstreaming is the translation of the commitment into action.<sup>9</sup> Why has this been so difficult? If the commitment is easy to adopt, and no one would, with any degree of seriousness, challenge the overall goal of gender equality, why is its translation into action such a Herculean task? Should we abandon gender mainstreaming as a strategy to achieve gender equality if it does not bring results? To what extent do its strengths outweigh its weaknesses? Can we conceive of a working alternative that is clearer and more capable of being implemented? The answers to these questions are certainly open to debate, but one thing is certain: As a means to an end, gender mainstreaming – as a concept, as it stands – is in need of further development, and this can only come about as a result of further scrutiny.

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5 *Official Records of the General Assembly, Fifty-Second Session, Supplement No. 3 (A/52/3/Rev.1)*, chapter IV, paragraph 4.

6 Cf. Moser, cited above (Note 4), p. 577.

7 Hilary Charlesworth, *Not Waving but Drowning: Gender Mainstreaming and Human Rights in the United Nations*, in: *Harvard Human Rights Journal*, Spring 2005, pp. 1-18.

8 Cf. Moser, cited above (Note 4), p. 576.

9 Cf. Charlesworth, cited above (Note 7), p. 11.

Another difficulty related to gender mainstreaming is the question of how we measure progress. The deployment of the language of gender mainstreaming in the area of human rights may appear successful, at least if measured by its omnipresence. But very little work appears to have been undertaken in measuring the progress made.<sup>10</sup> How effective has gender mainstreaming been in catalysing social shifts towards equality? What impact are “gender mainstreamed” projects and policies having on the status of women? Who is monitoring the progress, and according to what indicators? Again, these are difficult questions, but they are questions the OSCE and other organizations working on gender mainstreaming need to be asking in order to check whether the strategy currently employed to achieve the goal of gender equality is in fact bringing us forward.

Moser notes that ten years since governments around the world signed the Beijing Platform for Action, practitioners are asking whether gender mainstreaming has succeeded. Moser’s analysis leads to her conclusion that “with hindsight, the Beijing PfA was immensely ambitious, not only because of the bold goal it set itself, but also because of the lack of real clarity or directive as to what gender mainstreaming meant in practice”.<sup>11</sup> The issue, she argues, “is not so much one of the failure or success of gender mainstreaming, as it is of deconstructing the concept and its different stages into a viable implementation process, with appropriate indicators to monitor or evaluate it”.<sup>12</sup>

More importantly, Charlesworth argues that “gender mainstreaming in the human rights field has been a mixed success, with institutional inertia and resistance effectively confining its impact to a rhetorical one. It has not led to any investigation of the gendered nature of international institutions themselves or any call for effective organizational change.”<sup>13</sup> This notion that “organizational change” is a crucial, but often overlooked, factor in giving the concept of gender mainstreaming some bite to its bark is explored in more detail below.

#### *Policy Foundation for Gender Mainstreaming in the OSCE*

The Helsinki Final Act (1975), in its “Declaration on Principles Guiding Relations between Participating States”, affirms that “participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race,

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10 Cf. *ibid.*, pp. 13-16.

11 Moser, cited above (Note 4), p. 585.

12 *Ibid.*

13 Charlesworth, cited above (Note 7), p. 16.

sex, language or religion”.<sup>14</sup> The range of commitments adopted by participating States has evolved since that time from a simple condemnation of discrimination on the basis of, in this case, sex to an appreciation that full and true equality between men and women is a fundamental aspect of a just and democratic society based on the rule of law, and that the full development of society and the welfare of all its members require equal opportunity for full and equal participation of men and women.<sup>15</sup>

In 2000, the OSCE approved an Action Plan for Gender Issues<sup>16</sup> (hereinafter the 2000 Action Plan), calling for increased efforts to achieve equal treatment of women and men within the Organization in all areas, including personnel, recruitment, and the inclusion of a gender perspective in the activities of the Organization. There were, however, shortcomings in the implementation of the 2000 Action Plan, especially in the fields of training, management, recruitment, and in the overall practice of gender mainstreaming throughout the OSCE as well as within participating States. Renewed efforts were called for. In 2004, “Mindful of the need to appropriately reflect a gender perspective in the activities conducted under the auspices of the OSCE, and for participating States to take all necessary measures to encourage gender awareness raising and to promote equality in rights and full and equal participation of women and men in society, the aim being to promote the practice of gender equality and gender-mainstreaming in the OSCE area, which is essential to comprehensive security”,<sup>17</sup> the Sofia Ministerial Council adopted the OSCE Action Plan for the Promotion of Gender Equality (hereinafter the 2004 Action Plan).<sup>18</sup>

The Ministerial Council stressed “the need for the OSCE to develop further and strengthen a continuous and sustainable gender-mainstreaming process, to promote a gender sensitive and professional working environment and management culture, and efforts towards gender balance in staffing in particular on a professional level, in accordance with the OSCE Staff Regulations”.<sup>19</sup>

The 2004 Action Plan highlighted three key problem areas for the OSCE as an Organization: (i) representation of women in the OSCE con-

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14 Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 141-217, here: p. 146.

15 Cf. Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991, in: Bloed (ed.), cited above (Note 14), pp. 605-629, Articles 40-40.13, pp. 622-624.

16 The 2000 Action Plan was approved as a “set of guidelines aimed at ensuring gender equality”. Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 353, OSCE Action Plan for Gender Issues*, PC.DEC/353, 1 June 2000.

17 Organization for Security and Co-operation in Europe, Twelfth Meeting of the Ministerial Council, Sofia, 6 and 7 December 2004, MC.DOC/1/04, 7 December 2004, *Decision No. 14/04, 2004 Action Plan for the Promotion of Gender Equality*, MC.DEC/14/04 of 7 December 2004, pp. 38-53, here: p. 38.

18 *2004 OSCE Action Plan for the Promotion of Gender Equality*, Annex to Decision No. 14/04, *ibid.*, pp. 39-53.

19 MC.DEC/14/04, cited above (Note 17), p. 39.

tinues to be low, in particular at senior and policy-making levels, and statistics indicate that women candidates may have less chance of being employed by the Organization than men; (ii) training and sensitization of managers on gender issues, and on the responsibilities of all staff within their tasks and subject areas in this regard has not produced the expected results; (iii) although the 2000 Action Plan stipulated that a comprehensive framework would be established for gender mainstreaming projects, and that data and research materials on gender issues would be analysed and used in the design of new programmes, this process was not developed with due continuity.<sup>20</sup>

It is not clear why the expected results were not achieved, or why processes of gender mainstreaming were not developed with due continuity. There have been reports detailing some of the possible reasons for this, such as a lack of human resources and a lack of training, but a more comprehensive analysis of these reasons would have offered important insight into why things did not work in the past, and what things would need to change in order for them to work in the future. This understanding, in turn, could have informed future OSCE policy on promoting gender equality and ensured the adoption of a strategy more responsive to the needs and capacity of the Organization.

The 2004 Action Plan, supported by an Implementation Plan, is the “strategic document for achieving gender equality”. It outlines a number of priorities, including (i) specific training for OSCE staff on gender awareness and sensitization to gender equality in their daily work; (ii) promotion of a professional and gender sensitive management culture and working environment; (iii) strengthened and innovative recruitment strategies to ensure that well qualified women candidates are identified and attracted – with the aim of increasing the number of women at the senior level in the OSCE; and (iv) effective gender mainstreaming of all OSCE activities and policies, as well as of the activities and policies of the participating States.<sup>21</sup>

While the Action Plan contains a number of laudable and ambitious goals, it lacks clarity on certain key concepts. How, for example, do we define a “gender sensitive management culture”? What would an “innovative recruitment strategy” look like? What does it mean to mainstream a gender perspective in your daily work if you do not work on programmes or projects? These are legitimate questions that are currently being addressed within the Organization, but conceptual clarity ought to have informed the development of the Action Plan, not been developed *ex post facto*. In any event, giant leaps forward are unlikely to occur until these questions are resolved.

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20 Cf. *2004 OSCE Action Plan for the Promotion of Gender Equality*, cited above (Note 18), p. 40–41.

21 Cf. *ibid.*, p. 42.

### *Priority Issues within the Organization*

The 2004 Action Plan identified three key internal areas where targeted action is needed in order to promote gender equality: recruitment, training, and management. These three areas should work together to build an organizational structure conducive to achieving the goal of gender equality, and better placed to implement commitments in this field. The analysis presented below would seem to indicate that more effort is required on all three fronts.

#### *Gender Balance and Recruitment*

In terms of the number of women and men employed in the Organization, a cursory look at overall statistics does not reveal any gross imbalance: Women hold 51 per cent of positions in the Secretariat and institutions (compared with 49 per cent of positions held by men). Women hold 41 per cent of positions in missions and field activities (compared with 59 per cent of positions held by men). While the numbers are not equal, they are also a far cry from the “virtual absence of women” often bemoaned in discussions of gender balance and recruitment. How can this be explained? Quite simply: The overall statistics include all categories of staff, at all levels. A closer look at the statistics broken down by professional category and area of work paints a rather different picture: Women make up only 18 per cent of management positions in the Secretariat and institutions, but 70 per cent of support staff positions. In missions and field activities, again women make up only 18 per cent of management positions, and 42 per cent of support staff positions.

When it comes to senior management in the form of Heads of Mission in OSCE field presences, women’s absence is not “virtual”, it is absolute: As of December 2005, there was not one female OSCE Head of Mission. Women held only 23 per cent of Deputy Head posts, and 24 per cent of other senior management positions in OSCE missions.<sup>22</sup> It is important to note in this context the role of participating States in achieving gender balance in the OSCE, through the nomination of well-qualified women candidates, particularly in higher-level positions.

#### *Awareness Raising and Capacity Building of Staff*

In March 2006, the Training Section of the OSCE Secretariat conducted the first ever comprehensive Organization-wide gender training needs assessment. The survey was designed to address the lack of an organizational

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22 For further OSCE statistics on gender balance within the Organization, see the first Secretary General’s *Annual Evaluation Report on the Implementation of the 2004 OSCE Action Plan for the Promotion of Gender Equality*, SEC.GAL/96/06, 29 June 2006, 7 June 2006. The latest available statistics are as of December 2005.

understanding and analysis of the obstacles that prevented the realization of OSCE goals in the field of gender equality.<sup>23</sup>

Forty-five per cent of respondents stated that they were only somewhat familiar with the content of the 2004 Action Plan or not familiar with it at all. Nearly half of all respondents did not know whether a written plan to implement the 2004 Action Plan existed in their mission or institution. These rather disturbing figures illustrate the level of awareness among staff of the OSCE policy framework on gender equality, and their obligations with regard to gender mainstreaming.

The survey did highlight some positive aspects. For example, 61 per cent of respondents believed that acquiring gender mainstreaming skills would improve their overall performance as OSCE officials; 60 per cent of respondents wanted to develop their skills in gender mainstreaming; and 59 per cent of respondents believed that all OSCE officials should know how to conduct a gender analysis. These figures are a good sign, as they demonstrate an awareness of the relevance of gender in the work of OSCE officials, and a willingness among the majority of respondents to develop their skills in this area as a means of improving their overall performance.

### *Gender Sensitive Management*

The results of the survey, however, also indicated some disturbing aspects: only 38 per cent of respondents agreed that OSCE senior management conveys to staff that gender mainstreaming is an important priority, and only 37 per cent of respondents agreed that mission/institution management required them to mainstream a gender perspective in their work. In terms of gender issues being on the “agenda”, 47 per cent of respondents stated that gender issues rarely feature at planning meetings at their mission/institution; 17 per cent said gender issues never feature at such meetings. The reasons given for this included (i) other issues are considered higher priority, (ii) inability to link a gender perspective to other issues, (iii) lack of understanding of the relevance of gender issues, and (iv) lack of commitment from senior management.

The need to train senior management, as a particular target group, on gender issues and gender mainstreaming was expressed by a number of respondents in the training needs assessment, who noted that without such efforts, the “little people” could not achieve much.<sup>24</sup>

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23 An invitation to participate in the online survey was sent to gender focal points, Programme Managers, Chiefs of Fund Administration and alternates, and participants in the General Orientation Programme from 2005. Overall, the invitation was sent to 437 OSCE officials in the Secretariat, institutions, and field operations. A total of 273 responses to the survey were received, including 234 complete responses, and 39 incomplete responses. Respondents comprise a cross-section of the Organization, including all levels of staff and geographic areas. It is therefore considered to be a representative sample.

24 Cf *Gender Training Needs Assessment Report*, Training Section, Department of Human Resources, May 2006.

Finally, although the 2004 Action Plan calls for a “gender sensitive management culture and working environment” there is still no general consensus on what this actually means. The challenge for the OSCE, then, is to define the term in a practical way that has the support of management and is understandable to staff.

The obstacles to implementing the 2004 Action Plan revealed by the survey appear to be endemic and relate largely to a lack of familiarity with the OSCE policy framework on gender equality, a lack of the skill set needed to conduct a gender analysis and ensure the integration of a gender perspective into OSCE policies, programmes, and activities, and a perceived lack of commitment from senior management.

These problems go a long way in explaining why progress has been so slow in this area, and why the “expected results” were not achieved following the adoption of the 2000 Action Plan: People are not sure what to do, they are not sure how to do it, and they do not perceive that people at the “top” even believe in the cause. This is not a solid base on which to demand results, and it should come as no surprise that, instead of being characterized by action and outcomes, the process of gender mainstreaming within the OSCE has been neither generalized nor systematic. Where it has happened, it has been more the result of individual initiatives, rather than institutional momentum.

But while these problems are serious and require attention, there is no need to throw our hands in the air and admit defeat, or claim the task at hand is just impossible to achieve. None of the obstacles described above are fatal, and all of them can be resolved through targeted training and education initiatives in support of the sought-after organizational change.

It should also be noted here that the obstacles described above are not unique to the OSCE. In fact, gender mainstreaming in practice has encountered sustained resistance from various quarters. For example, a review of gender-mainstreaming policy as implemented under the UNDP, World Bank, and ILO found inadequate budgeting for the gender components of projects, insufficient development of analytical skills, poor supervision of the implementation of gender components, and a general lack of political commitment both within the organization and at the country level.<sup>25</sup> The fact that the OSCE is not alone among international organizations in finding it difficult to bring about this change may say more about the process of gender mainstreaming than some people are willing to recognize, but at the very least it points to the fact that combined efforts are urgently needed to develop more effective means of implementation and evaluation.

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25 Cf. Charlesworth, cited above (Note 7), p. 11.

### *Challenges the OSCE Faces in Gender Mainstreaming*

When presenting the first OSCE-wide evaluation of the implementation of the 2004 OSCE Action Plan for the Promotion of Gender Equality, the OSCE Secretary General praised the efforts that were being made across the Organization and noted that the requirements of the 2004 Action Plan had given a strong impetus to the process of gender mainstreaming in the OSCE, both in the working environment and in the development of policies, activities and programmes. He concluded, however, that “a lot remains to be done and each part of the OSCE must acknowledge responsibility, including the participating States”.<sup>26</sup> As the OSCE attempts to tackle the work that remains to be done, what are some of the challenges it may encounter along the way?

As a “global strategy”, gender mainstreaming has received endorsement from a wide range of organizations and governments. Indeed, few people would, on an intellectual level, challenge the value of assessing the potentially different implications for women and men of any programme, policy, or activity. Nevertheless, there are at least three forms of resistance that need to be addressed in order to maximize the effectiveness of gender mainstreaming within the OSCE.

- (i) **Scepticism:** This form of resistance arises from an inability to relate a gender perspective to particular areas of work (most notably in what are traditionally male dominated spheres and “administrative” spheres). Because people cannot see a correlation, they are not willing or able to examine their work from another dimension and they resist simply “being told” to mainstream a gender perspective.
- (ii) **Association:** This form of resistance arises when people perceive the goal as having a negative association. Some people are resistant to even the term, “gender mainstreaming”, because they perceive it as a “feminist” issue or a “women’s” issue. They do not want to engage in gender mainstreaming because they do not want to be associated with a feminist agenda.
- (iii) **Ambiguity:** This form of resistance arises from the tension inherent in having to meet ambiguous expectations. The precision with which targets and expectations are set is very important – if management is not specific about what it wants people do, then at least some people will get it wrong. If the expectations are ambiguous, people will see their goals as too difficult to achieve and they will resist even attempts to do so.

A gender mainstreaming approach that does not address the above forces of resistance, and only focuses on the technical process of “doing”, cannot suc-

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26 Introductory remarks of the Secretary General, *Evaluation Report on the Implementation of the 2004 OSCE Action Plan*, cited above (Note 22).

ceed, because it ignores the role of individuals as agents of change, and the roles of attitudes and behaviour in determining whether an individual is receptive or resistant to change. Such an approach is what allows a senior official to reject, personally, the value and purpose of gender mainstreaming, while at the same time claiming to implement exactly this strategy in his activities through the organization of an event that addresses the topic. The message this sends is that “lip service is acceptable, progress is optional”. The more this message permeates the Organization, the more parasitic it becomes and the greater the risk that it will overshadow the well-intentioned and productive work of truly committed people. The greater the risk, also, that people will distance themselves from a message which they perceive as insincere.

Does this mean that the policy framework is moot and that success really only hinges on the will of the people to implement a given change once they themselves see a value in it? The answer is no. The “political dimension” in the form of policy commitments and action plans is crucial; it provides a necessary framework for understanding the issues we want to address, outlining individual and collective responsibilities, and establishing a mechanism for reporting on the progress that is made. But it is a danger and a mistake to ignore or underestimate the role of the “human dimension”, in the form of OSCE staff at all levels, partner organizations, civil societies with which the OSCE works, and the beneficiaries of the OSCE’s work. Policy states the cause, but people drive the change. The key is to see them not as competing interests, but as complementary; one rarely works without the other.

#### *Gender Awareness and Organizational and Social Transformation: The Importance of Education*

In “Surviving the Twilight Zone: the Psychology of Organizational Change”, Joni Johnston argued that “often it’s not the destination employees are concerned about, it’s the journey”.<sup>27</sup> Employees, she contends, need to know what the journey from here to there involves, where the potential potholes are, where they can find the safety net, and how to pace themselves on the trail. Indeed, few if any OSCE officials would be concerned about gender equality as a destination, but the levels of resistance encountered when it comes to gender issues do indicate a significant amount of discomfort with the journey.

The process of changing attitudes and behaviour is not an easy one, precisely because it can only be guided, but not controlled, by external forces, including trainers or educators. But are there indicators that are likely to predict successful, less painful, and lasting change? According to Emily Lawson

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27 Joni Johnston, *Surviving the Twilight Zone: the Psychology of Organizational Change*, at: [http://www.workrelationships.com/site/articles/organizational\\_change.htm](http://www.workrelationships.com/site/articles/organizational_change.htm).

and Colin Price, psychological theory shows that four things are needed to enable individuals to start, transition, and complete a behaviour change. These premises can also be applied to the process of gender mainstreaming within the OSCE, as in most cases the implementation of this commitment will require a shift in personal attitudes and behaviour. The basis of changing a mind-set is:

- The individual can see the purpose of the change and agrees with it;
- The rewards and recognition system must support the new behaviour;
- The individual must have the skills for the new behaviour;
- Key people who are role models must be seen to model the new behaviour.<sup>28</sup>

Of course, change can be silently sabotaged by people who ask for it but do not implement it first.<sup>29</sup> This is the case with a number of organizations that – through action plans, staff instructions, and other means – demand that staff adopt a certain approach, which staff cannot in fact identify in the behaviour of senior management. This is perhaps the single most determining factor in the failure to implement organizational change, and the most potent justification for active leadership at the highest level.

Social transformation, and, by the same token, organizational transformation, cannot take place without transformation of the individual. The most effective and sustainable way to achieve gender equality in the OSCE and the OSCE region, then, will be through an individual and collective shift in people's attitudes and behaviour. And the most effective and sustainable way to achieve that is through education and training.

In terms of seeing the pitfalls of the status quo and the purpose of the change, and in developing the skills for the new behaviour, organizational capacity building is absolutely crucial. Educational initiatives are the vehicle through which new values and skill sets are transmitted, and they are also the forum that allows for individual self-assessment and reflection, which can lead to a revision of attitudes and personal behaviour. The key to successful training programmes is for them to be consistent, co-ordinated, and continuous. One-off training efforts will have little effect; the message of promoting gender equality needs to be repeated and visible, and people need to have the opportunity to practice the new skills they develop under the guidance of others with expertise in this field. Eventually, as organizational capacity is built up over time, the need to rely on external expertise diminishes.

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28 Emily Lawson/Colin Price, The psychology of change management, in: *The McKinsey Quarterly* 2/2003.

29 Cf. *ibid.*

### *What More Can the OSCE Do?*

There are a number of steps the OSCE can take to sharpen its work in this field and position itself as a leading international organization devoted to realizing the goal of gender equality. First and foremost, the importance of gender mainstreaming needs to gain legitimacy through the actions, not just the words, of senior management. The signal sent by management on the significance of promoting gender equality within the OSCE region and the OSCE itself will largely determine the support it receives from all staff. When it comes to gender mainstreaming, senior management ought to lead by example – this means participating themselves in training offered on gender awareness and gender mainstreaming, it means raising gender issues at regular planning meetings, it means positioning gender focal points at sufficiently high levels and including them in decision-making processes, it means committing themselves to learning how to identify and integrate a gender perspective into their own daily work if they do not already know how to do this, it means giving recognition and praise to people who are doing excellent work in promoting gender equality and ensuring that these practices are visible to others. More than anything, it is about holding the personal conviction that gender inequality is an intolerable reality, and one that the OSCE will do everything it can to change. Management's commitment to ensure, not with lofty assurances, but in practical ways, a gender-sensitive working environment is also an important indicator of the weight they give to this issue.

Second, an enabling environment for gender mainstreaming needs to be created and sustained through ongoing and widespread awareness raising and capacity building for staff. The ability to identify and integrate a gender perspective into your work is not easy for everyone – some people get it instinctively, others can learn it, and some people may always struggle with it. But there have to be mechanisms in place to help people gain an awareness and understanding of the issues at hand, and the skills to deal with them. In practice this would mean offering regular training sessions on gender awareness and gender mainstreaming, and complementing these with simple but forceful OSCE-wide campaigns that draw people's attention to various gender issues, particularly within the Organization. These could be modelled on the successful campaigns of other organizations or institutions, such as the Equal Opportunities Commission in the UK, whose poster series on equal opportunities has been very effective. In addition, a lecture series on gender issues outside of the OSCE mainstreaming framework may be helpful in cultivating an understanding that gender issues are around us, everywhere, and that if we want to see any great social shifts, gender equality needs to be addressed and promoted far beyond the OSCE framework. This approach could provide a forum for important debate and also contribute to a process of self-

reflection in which people examine their own roles in supporting or perpetuating existing structures of inequality.

Third, better measures of accountability need to be introduced into the process of gender mainstreaming in the OSCE. Sophocles said: “What you cannot enforce, do not command”. Indeed, what is not enforced is often not adhered to at all. The development of indicators to measure success in gender mainstreaming for inclusion in the performance appraisal system would be one way of ensuring better accountability, and could put into place a system of incentives and rewards that might spur progress within the Organization. In addition, departments or units that are performing exceptionally well in this area could be rewarded for doing so, as experience shows that departments and units do not want to under-perform in relation to others, and that a system of rewards is an important motivator. By the same token, a system should be in place to hold departments and units to account who fail to produce results in this area. The notion that there are “consequences” for failing to ensure a gender sensitive working environment, or failing to meet the OSCE’s commitments on gender mainstreaming, should be literal, not figurative.

Finally, the OSCE could better engage in the process of “benchmarking”, whereby it compares its performance and progress with those of other organizations in a systematic way. This could allow for the infusion of “new life” into the discourse and debate on gender equality within international organizations, and allow for the replication of best practice models to the benefit of all.

### *Conclusion*

In many ways, the OSCE has reached a turning point in its work to promote gender equality: through the strengthened commitments and tasks outlined in the 2004 OSCE Action Plan, the renewed drive and direction that has been garnered through the development of specific plans to implement the 2004 Action Plan, and the insight that stems from the first annual evaluation report on the implementation of the 2004 Action Plan.

There is of course still room for the OSCE to strengthen and improve its efforts in promoting gender equality, both inside and outside its own walls. But in order for this to happen, it is imperative to recognize that profound change is a complex process, requiring more than a well-formulated, articulate expression of will. It is only through organizational capacity building and strategic organizational change that the OSCE can come close to achieving the ambitious goals it set for itself in the 2004 Action Plan. It is not the easy way out – the process will require patience, persistence, precise planning, and provision for growing pains that may stall progress. It will also require some serious self-reflection and analysis of the consequences of the courses of ac-

tion to date. The change that grows out of this process may not be immediate – it may be slow and cautious, but supported by a foundation and structure that are committed to really understanding and reflecting on the ways in which they have contributed to inequality in the past, and how they can promote equality in the future, it will likely be a change we can sustain. As Carl Jung wrote: “Who looks outside, dreams. Who looks inside, awakens.”



## External Relations and Influence



## The European Union and the OSCE – Natural Partners in a Networked World

In a globalized world, with all the opportunities and risks that this brings, the Organization for Security and Co-operation in Europe (OSCE) and the European Union are natural partners.

For more than three decades, the OSCE has been a cornerstone of the Euro-Atlantic institutional architecture. By uniting 56 countries between Vancouver and Vladivostok it has become a unique platform for enhancing and promoting comprehensive security. Since the Final Act of Helsinki was signed three decades ago, the OSCE has achieved a huge amount, and the Organization's activities have progressed from confidence-building measures and arms control to post-conflict institution building and the observation of democratic elections.

The EU has also changed a lot during this period. It has honed its foreign-policy instruments and become a major actor on the global stage. Through its worldwide presence, the EU is now increasingly able to contribute to tackling the root causes of insecurity: from using its role as the world's largest trading block and provider of development aid to contributing to the struggle against climate change and promoting respect for human rights, as well as carrying out peacemaking missions and crisis management activities.

Recent EU enlargement has helped towards sustaining regional security, and the European Neighbourhood Policy (ENP) will also contribute to this further. The ENP has grown significantly in importance and is now a key foreign policy priority for the EU that will have its own dedicated instrument, the "European Neighbourhood and Partnership Instrument", from the beginning of 2007. The ENP is used to promote stability and reform in our neighbouring countries to the east and the south. ENP Action Plans – detailed agendas for reform that are produced with every partner country – invite our neighbours to move towards deeper economic, political, cultural, and security co-operation. The ENP is a win-win policy, allowing Europe and its partners to strengthen stability, security, and well-being for all concerned, and in implementing it we see further potential for synergies with the OSCE.

Despite admirable efforts on the part of the EU and the OSCE, 2005 was a challenging year. On the one hand, there was progress in consolidating democracy and the rule of law within the area covered by the OSCE. At the same time, we saw a rise in violations of fundamental OSCE values, while several "frozen conflicts" remained unresolved.

These ongoing challenges mean even more effort is required across all three OSCE dimensions: the politico-military, the economic and environmental, and, of course, the human. To this extent, there is no "imbalance" in

the OSCE, as some critics claim. The human dimension remains essential, as violations of fundamental freedoms and human security are increasingly at the root of broader security problems, the resolution of which is in all our interests.

Following the reform debate of 2005, it is now important that all OSCE participating States respect and implement the conclusions of the Panel of Eminent Persons. That means ensuring the OSCE, its specialized institutions, and its field missions become more effective, and granting them – and ODIHR in particular – the independence and political neutrality that they need to perform their tasks effectively. The OSCE must also be provided with the financial means it needs to fulfil its tasks. Comprehensive security can never be free of charge.

During 2005 in Ukraine, the OSCE and the EU succeeded in making a substantial contribution to strengthening the rule of law and democracy and towards ensuring sustainable economic reform. In Moldova, the European Union's Border Assistance Mission has been successfully operating since December 2005, not only to combat trafficking, but also to generate new momentum on the Transdnistria conflict.

We also saw positive developments in many key cross-cutting areas of the OSCE's work: for instance, in strengthening tolerance and non-discrimination, in the fight against terrorism, in activities related to environmental and transport security, and in initiatives for combating organized crime (particularly trafficking in drugs and human beings). This range of issues reflects the broad concept of security that the EU and the OSCE share.

The EU, and the European Commission in particular, played a constructive role within the OSCE during 2005 – both in the debate on internal reform and in concrete geographic and thematic areas. There was close co-operation between OSCE missions, European Commission delegations, and other EU representatives in the field (above all in South-eastern Europe), as well as between ODIHR and the Commission, particularly in election monitoring missions, and the EU continued to provide financial support for ODIHR activities. There was also enhanced co-operation on training for civilian crisis management. In order to further develop this close partnership, a declaration on EU-OSCE co-operation was adopted at the initiative of the Austrian EU Presidency.

However, despite this positive co-operation, we are aware that the European Union still needs to perform more effectively and coherently in the OSCE context. EU member states and the European Commission have to become better at speaking with a single voice in order to use their weight more constructively. There could also be further improvements in ensuring more effective inter-linkages between EU and OSCE activities.

The OSCE's activities have always been important to me in my political work. This was true when I was Austrian Foreign Minister and during my time as OSCE Chairperson-in-Office in 2000, and continues today in my ac-

tivities as EU Commissioner for External Relations and the European Neighbourhood Policy, which includes responsibility for relations with the OSCE. It is my view with regard to the OSCE's ongoing reform agenda that following the transitional period of 2005, the OSCE will experience a renaissance. In a complex world, we need effective multilateralism and an innovative security policy. Therefore, what is needed is not "less" OSCE, but a "better" OSCE. The challenges of the 21st century are too important for us to allow the legacy of Helsinki and the achievements made in all three dimensions of the OSCE to be forgotten.

In reforming the OSCE, I firmly believe we must not lose sight of its principles. On the contrary, the interconnectedness between security, democracy, and human rights is more relevant today than ever before. In the Euro-Atlantic region, managing change, building political confidence, and, above all, guaranteeing human security will continue to be the key tasks for the future.



## The ASEAN Regional Forum and Fields for Co-operation with the OSCE<sup>1</sup>

The OSCE and the ASEAN Regional Forum (ARF) are security institutions on two neighbouring continents that, despite a high level of economic integration, have undergone asymmetrical development and have very different security situations. That in itself would suggest that they should co-operate on security issues. However, while the CSCE/OSCE has for years embodied a modern (i.e. comprehensive, collective, and sustainable) security structure, the ARF so far reflects merely the desire to establish modern security concepts and structures in Asia.

Some two decades separate the start of the CSCE process from the founding of the ARF. This is reflected in the different degrees of institutionalization of the two organizations and the scope of their political norms and commitments. They also vary in the extent to which they interfere in their members' political affairs.

The OSCE and the ARF resemble each other in terms of their general objectives, which have no force under international law but are only politically binding. The memberships of both institutions, which extend to three and four continents, respectively, reflect the powerful influence of global actors on security matters. A large bloc of states is present in each. Half of OSCE participating States are directly (Canada, Russia, USA) or indirectly (via the EU) represented in the ARF. Four of the OSCE's five Asian partners are also ARF members.

The current contribution provides an overview of the ARF, draws some comparisons between it and the OSCE, and examines specific national interests in co-operation between the two organizations. It takes as its starting point the thesis that although neither organization belongs to the leading multilateral security actors, they are useful for facilitating the transfer of security expertise between Europe and Asia and for embedding local and regional security management in supraregional security arrangements. The contribution concludes by suggesting areas and topics for co-operation between the OSCE and the ARF.

### *The ASEAN Regional Forum (ARF)*

The ARF is the most important regularly convening multilateral security body of significant size in Asia. The annual Forum represents the security

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1 The current contribution discusses events up to June 2006.

policy dimension of the Association of Southeast Asian Nations (ASEAN). Efforts to found it were set in motion at the 1992 ASEAN summit by means of the Singapore Declaration and the demand for an intensified security policy dialogue<sup>2</sup> and concluded at ASEAN's 26th Ministerial Meeting and the follow-up conference to the meeting (Singapore 1993). The inaugural meeting of the ARF was held in Bangkok on 25 July 1994.

The ARF is active in the same general environment as such varied institutions as the subregional Shanghai Cooperation Organization (SCO),<sup>3</sup> the regional Conference on Interaction and Confidence-Building Measures in Asia (CICA),<sup>4</sup> and supraregional institutions, such as the Asia Pacific Economic Cooperation (APEC),<sup>5</sup> the ASEAN+3 discussion forum,<sup>6</sup> the Asia Cooperation Dialogue (ACD),<sup>7</sup> the Northeast Asia Cooperation Dialogue (NEACD),<sup>8</sup> and the Asia Europe Meeting (ASEM)<sup>9</sup>. These and similar organizations or initiatives all embody attempts by various sides to create an overall framework for the security architecture of the Asian continent and Asia's subregions in a way that will enable negotiation and regulation.

#### *The ARF Members and Their Links to OSCE Participating States*

The members of the ARF are the ten ASEAN states and a group of ASEAN dialogue partners, specifically:

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- 2 Cf. *Singapore Declaration of 1992*, at: <http://www.aseansec.org/5120.htm>.
  - 3 The SCO was founded by China, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, and Uzbekistan in 2001 as an intergovernmental organization for Asian security building – mostly by means of border adjustments, the reduction of armed forces, confidence-building measures, counter-terrorism, economic, infrastructure, and other forms of co-operation.
  - 4 The CICA is a conference platform that was initiated by Kazakhstan in 1992. Its members are Afghanistan, Azerbaijan, China, Egypt, India, Iran, Israel, Kazakhstan, Kyrgyzstan, Mongolia, Pakistan, the Palestinian Authority, Russia, Tajikistan, Turkey, and Uzbekistan. Australia, Indonesia, Japan, Lebanon, Malaysia, South Korea, Thailand, Ukraine, the USA, and Vietnam have observer status.
  - 5 APEC is an annually convening economic and trade forum with 21 participating states that aims to encourage co-operation.
  - 6 Founded in 2001, ASEAN+3 consists of the ten ASEAN states, plus China, Japan, and South Korea.
  - 7 The ACD was founded in 2002 as an annual meeting, focusing mostly on economic topics, of foreign ministers from 28 states: Bangladesh, Bahrain, Bhutan, Brunei Darussalam, Cambodia, China, India, Indonesia, Iran, Japan, Kazakhstan, Kuwait, Laos, Myanmar, Mongolia, Malaysia, Oman, Pakistan, Philippines, Qatar, Russia, Saudi Arabia, Singapore, South Korea, Sri Lanka, Thailand, the United Arab Emirates, and Vietnam.
  - 8 The NEACD is an informal Track-Two forum, pursued by China, Japan, Russia, South Korea, North Korea, and the USA. It has convened regularly since 1993.
  - 9 Established in 1996, ASEM is an informal dialogue forum for the heads of state or government of the 25 EU states, the European Commission, the seven ASEAN states Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore, Thailand, and Vietnam, as well as China, Japan, and South Korea. From the European point of view, the goals of ASEM are bilateral relations, the CFSP, and areas of foreign policy that are the EU's responsibility. ASEM is wide-ranging, dealing with political issues as well as trade and economics, culture, education, and social matters.

1. *The ASEAN states* Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam, plus
2. *The ASEAN dialogue partners* Australia, Canada, China, the European Union, India, Japan, Mongolia, New Zealand, North Korea, Pakistan, Papua New Guinea (observer status), South Korea, the Russian Federation, Timor Leste, and the USA.<sup>10</sup>

In its current formation, more than half of the OSCE participating States work together with four of the OSCE's five Asian partners (Japan, South Korea, Mongolia, and Thailand) in the ARF. ARF documents contain references to co-operation with Europe (i.e. the European Union) starting with the Fourth ASEAN Regional Forum (1997).<sup>11</sup> From an Asian perspective, the participation of all five official atomic powers is equally important.

#### *The General Goals and Priorities of the ARF*

The ARF is a dialogue forum for the pursuit of ASEAN's key security policy goals. In ASEAN's preferred terminology, these are described as regional harmony and stability. The ARF supports consultations on security matters and has been established (1) to promote confidence-building measures (CBMs), (2) to develop mechanisms for preventive diplomacy, and (3) working out approaches to conflict management.<sup>12</sup> The ARF's three intended development stages are defined in terms of the plan for the successive take-up of these three key areas. Currently, the ARF is concerned above all with CBMs and preventive diplomacy. In addition, participation in international anti-terrorism efforts has been a particular priority since late 2001.

On the one hand, the ARF is concerned with conventional security issues such as the non-proliferation of nuclear weapons, other WMDs, and small arms, on the other with new security threats such as terrorism, cross-border crime, trafficking in drugs and human beings, and piracy and other threats to maritime security. The ARF has an option of undertaking peacekeeping operations. Like the OSCE, it positions itself primarily by means of its decisions and declarations, thus committing its members to maintain a particular political climate among themselves. In contrast to the OSCE, the ARF is not yet involved in conflict management. It has never directly dealt with specific problem areas, such as the Korean question, North Korea's efforts to acquire nuclear weapons, or the Taiwan question. In 2004, Pakistan was only allowed

10 Bangladesh joined the ARF in July 2006.

11 See *Chairman's Statement*, The Fourth ASEAN Regional Forum, Subang Jaya, 1997. These and other references to ARF documents are taken from the ARF Document Series, at: <http://www.aseansec.org/ARF-Doc-Series-2004.htm>, which has been updated to the end of 2004. Documents can also be accessed at: <http://www.aseanregionalforum.org>, which has been updated to 2006.

12 Cf. *Chairman's Statement* and *The ASEAN Regional Forum – A Concept Paper*, The Second ASEAN Regional Forum, Bandar Seri Begawan 1995.

into the ARF after explicitly promising not to place its differences with India on the Forum's agenda.

The underlying idea of the ARF – formulated in terms of challenges, stages of development, and organizational questions – was summarized in the Chairman's Statement made at the Second ARF in 1995, and in The ASEAN Regional Forum – A Concept Paper.<sup>13</sup>

#### *The Principles and Core Criteria of ARF Participation*

In the ARF, as in the OSCE, the principle of the equality of participants applies, but the former also upholds the principle of non-intervention in internal affairs. An equivalent to the 1991 Moscow Document, with which the OSCE removed human dimension issues from the sphere of exclusively domestic concerns, does not exist in the ARF. The ARF, like the OSCE, reaches decisions by consensus.

The four core criteria for participation in the ARF are commitment, relevance, gradual expansion, and consultation. These criteria were adopted in 1996; they refer to the *commitment* of the member states to contribute to reaching the collective goals of the Forum; the *relevance* of each state's security contribution to North-East and South-East Asia and Oceania; and the possibility envisaged by the ARF for *gradual expansion* while keeping the number of participants to manageable levels. New accessions will only be possible after *consultations* between the ARF Chairmanship and ARF members as well as the unanimous agreement of the ten ASEAN states.<sup>14</sup>

#### *The Organs of the ARF*

The ARF is far less institutionalized than the OSCE. The highest decision-making body of the ARF is the annual meeting of foreign ministers, which follows the meeting of ASEAN foreign ministers in June or July each year in the country holding the revolving chairmanship. The meeting is convened by the Chairman of the ARF, who is also the ASEAN Chairman, and which is thus also a position that rotates annually. In preparation, Senior Officials' Meetings (SOMs) are usually held in May. The ARF Chairman, or indeed any ARF member, can call upon "Eminent/Expert Persons" (EEPs) to give their opinions on specific topics. The establishment of a group of "Friends of the Chair" or a Troika was discussed in 2004, albeit without results.

The ARF has no secretariat of its own, although it has frequently been proposed that one be established. Instead, merely an "ARF Unit" was created within the ASEAN Secretariat in 2004. Its task is to support the ARF Chair, but it reportedly consists of only three people, including its leader. Countries holding the ARF Chairmanship have tended to set up an ARF Contact Point.

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13 Cf. *ibid.*

14 Cf. *Chairman's Statement*, The Third ASEAN Regional Forum, Jakarta, 23 July 1996.

Between the annual meetings, meetings of the Intersessional Support Group on Confidence-Building Measures (ISG on CBMs) are held. They are chaired on a co-chairmanship basis by an ASEAN member and one of the dialogue partners. Cambodia and the EU were the co-chairs in 2004-2005. The results of the ISG meeting are presented at SOMs of the ARF. The mandate of the ISG must be renewed each year.

The Defence Officials Dialogue have held a luncheon during the ISG meeting since 2001 and had their first official meeting in 2002. In 2004, the ARF foreign ministers agreed to a Chinese proposal to hold an ARF security policy conference.

The ARF also holds Intersessional Meetings (ISMs), whose topics have included peacekeeping, search and rescue co-ordination and co-operation, and disaster relief. ISMs on counter-terrorism and transnational crime have been held since 2002.

The basic discussions on the establishment of the above-mentioned ARF bodies took place at the Second ARF in 1995.<sup>15</sup>

#### *The ARF's Two Negotiating Levels: Track One and Track Two*

Efforts to keep potentially controversial topics away from the ARF's official discussions and deal with them elsewhere reflect the nature of political and negotiating culture in Asia. This is why, as well as the meetings of government representatives designated "Track One", a "Track Two" was also established. This dialogue allows the unofficial exchange of views between experts from national strategic institutes and relevant NGOs. The advantage of this division into two strands lies in the way it expands the range of topics considered within the ARF.<sup>16</sup> Track Two also opens up the ARF to other organizations. Proposals from organizations such as the academic umbrella group, Council for Security Cooperation in the Asia Pacific (CSCAP),<sup>17</sup> may, from time to time, directly influence ARF decision making.<sup>18</sup> The ongoing dialogue taking place under Track Two must certainly count among the comparative advantages of the ARF. At the same time, by addressing "experts", this dialogue has a narrower focus than the OSCE's civil-society dialogue, which, while it does not have its own "track", does address the entire spectrum of non-governmental partners, and does so in all three baskets/dimensions, both from the centre and via its field presences.

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15 Cf. *Chairman's Statement*, cited above (Note 12).

16 Cf. *ibid.*

17 CSCAP is a Track Two platform established in 1992 by some two dozen strategic research centres in Australia, Canada, Indonesia, Japan, Malaysia, the Philippines, Singapore, South Korea, Thailand, and the USA.

18 Cf. *CSCAP's List of Proposals on Enhancing Interaction between Track I and Track II*, The Seventh ASEAN Regional Forum, Bangkok 2000.

### *The ARF Process and the Establishment of the ARF Acquis*

As a political process, the ARF is manifested above all in:

- ARF Statements
- ARF Concepts and Principles
- Chairman's Statements
- Co-Chairman's Summary Reports
- Summary Reports (of the content of events and meetings)
- Concept Papers
- "Distillations" and "Lists" of measures, such as CBMs.

A number of these decisions and documents have been published in the ARF Document Series. The collection of norms and commitments of the ARF participants presented therein is derived from the Forum's activities and decisions and thus acts as a sort of ARF *acquis* that is permanently being updated.<sup>19</sup>

The ARF also publishes an Annual Security Outlook – a collection of reports submitted voluntarily by ARF states. The sixth such compilation was unveiled at the Twelfth ARF in Vientiane (2005). It contained reports from eleven members (including China, the EU, Japan, Russia, South Korea, Thailand, and the USA).

Finally, the ARF also publishes Voluntary Background Briefings on Regional Security Issues.

### *The ASEAN Background to the ARF and the Three ASEAN Communities*

For our purposes, the following may be considered the key ASEAN decisions upon which the activities of ASEAN and the ARF are based:

1. The ASEAN Declaration (Bangkok 1967);
2. The Declaration of ASEAN Concord – Bali Concord (Bali 1976);
3. The Zone of Peace, Freedom and Neutrality Declaration (ZOPFAN, Kuala Lumpur 1971);
4. The Treaty of Amity and Cooperation (TAC, Bali 1976);
5. The Manila Declaration on the South China Sea (Manila 1992);
6. The Singapore Declaration (Singapore 1992);
7. The Treaty on the Southeast Asia Nuclear Weapons Free Zone (SEANWFZ, Bangkok 1995);
8. The Declaration of ASEAN Concord II – Bali Concord II (Bali 2003).

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<sup>19</sup> The ARF Document Series, cited above (Note 11).

ASEAN's strategic orientations are set down in ASEAN Vision 2020 (Kuala Lumpur 1997),<sup>20</sup> the Hanoi Plan of Action 1999-2004 (Hanoi 1998),<sup>21</sup> and the action plans derived from this, and the Vientiane Action Programme 2004-2010 (Vientiane 2004).<sup>22</sup> This is the basis for capacity-building measures such as the Initiative for ASEAN Integration (IAI)<sup>23</sup> and the Roadmap for the Integration of ASEAN (RIA).

The development of ASEAN and, hence, the activities of the ARF were given a new conceptual framework in October 2003. Bali Accord II reflects a general conviction that ASEAN should develop over time to become more of a community. The community idea was also boosted by the solidarity and co-operation during the outbreak of SARS in 2003 and the catastrophic aftermath of the Tsunami in 2004.

Bali Concord II is oriented towards the creation of an ASEAN Community based on the three pillars of political and security co-operation, economic co-operation, and socio-cultural co-operation.<sup>24</sup> The ASEAN Community is thus to consist of three sub-communities: the ASEAN Security Community, the ASEAN Economic Community, and the ASEAN Socio-Cultural Community. The ASEAN Security Community (ASC), which is our concern here, is designed to make a contribution to the peace and security of the broader Asia-Pacific region, but not as a defensive pact, military alliance, or the source of a common foreign policy. It is conceived as an open co-operative arrangement with ASEAN's friends and the ASEAN dialogue partners, is intended to take advantage of existing ASEAN institutions and mechanisms, as well as to help with the development of national and regional capacities in fields such as counter-terrorism, the fight against trafficking in drugs and human beings, combating transnational crime, and keeping South-East Asia free of weapons of mass destruction. In this, ASEAN's existing political instruments (ZOPFAN, TAC, SEANWFZ, etc.) are to continue to play a key role in CBMs, preventive diplomacy, and conflict management. Mechanisms should be created in areas such as norm-setting, conflict prevention, conflict resolution, and post-conflict rehabilitation. In accordance with regional needs, maritime issues are granted particular prominence.

The members of the ASC are committed to exclusively peaceful resolution of intraregional differences. They recognize the sovereign rights of the other member countries to their own foreign policies and defence arrangements and adhere to the principles of comprehensive security, non-intervention, decision making on the basis of consensus, national and regional resilience,

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20 Cf. <http://www.aseansec.org/1814.htm>.

21 Cf. <http://www.aseansec.org/8754.htm>.

22 Cf. <http://www.aseansec.org/VAP-10th%20ASEAN%20Summit.pdf>.

23 Cf. <http://www.aseansec.org/14013.htm>.

24 "An ASEAN Community shall be established comprising three pillars, namely political and security cooperation, economic cooperation, and socio-cultural cooperation that are closely intertwined and mutually reinforcing for the purpose of ensuring durable peace, stability and shared prosperity in the region", Declaration of ASEAN Concord II (Bali Concord II), at: <http://www.aseansec.org/15159.htm>.

and renunciation of the use or threat of violence. The ASC also provides the general political context for the ARF's co-operative activities. Within the ASC, the High Council of the Treaty of Amity and Cooperation is to stand as the essential component reflecting the commitment to peaceful conflict resolution. At the same time, the ARF is to remain the most important element in the overall regional security dialogue.<sup>25</sup> There is a separate *ASC Plan of Action*.<sup>26</sup>

### *The Key Focuses of the ARF*

As noted above, the three key focuses/development stages of the ARF encompass (1) the promotion of confidence-building measures, (2) the development of preventive diplomacy mechanisms, and (3) the development of conflict resolution mechanisms. They define the general matrix of ARF activities, on top of which come a number of one-off and interdisciplinary topics, such as non-traditional threats.<sup>27</sup>

### *Confidence-Building Measures*

As the core of the first development phase, confidence-building measures have played a prominent role in the ARF since the start. As far as the ARF is concerned, their key goals were already set down in the ASEAN documents ZOPFAN and SEANWFZ.

A first step was to include CBMs as Annex A (measures for immediate consideration) and Annex B (medium- and long-term measures, which can also be considered in the immediate future in the Track-Two process) in the above-mentioned ASEAN Regional Forum – A Concept Paper at the Second ARF (1995). Since then, they have evolved in terms of both scope and content.<sup>28</sup> Since the Third ARF (Jakarta 1996), the ISG on Confidence Building Measures has ensured that CBMs have a permanent place on the agenda of the annual forum. As such, the discussions on confidence-building measures are themselves considered to be an example of CBMs. They include the two areas of (a) the development of principles and (b) transparency. In detail, they cover the development of basic principles for inter-state relations and shared perceptions of security, defence policy publications, high-level defence contacts, exchanges between defence staff colleges and training, considerations of the establishment of ARF contact points, observation of manoeuvres and

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25 Cf. *ibid.*, Section A. ASEAN Security Community.

26 Cf. *ASEAN Security Community Plan of Action*, at: <http://www.aseansec.org/16826.htm>.

27 This topic has been dealt with in events such as the seminar on Enhancing Cooperation in the Field of Non-traditional Security Issues, Sanya 2005.

28 Cf. *Distillation of Agreed CBMs from the First up to the Fourth ARF*; and *List of New ARF CBMs*, The Fifth ASEAN Regional Forum, Manila 1998.

other monitoring activities, arms control, and WMD non-proliferation.<sup>29</sup> Measures designed to promote transparency include the publication of the Annual Security Outlook, the distribution of position papers on questions of national and regional security, notification of manoeuvres, mutual inspections of military sites, the exchange of military staff, an annual meeting of chairmen of national defence academies, and participation in the UN Register of Conventional Arms.

In practice, CBMs comprise above all seminars, workshops, and training events. They have also included the establishment of an ARF Regional Maritime Information Centre (ARF-RMIC).

### *Preventive Diplomacy*

As well as discussing confidence-building measures, ARF activities focus above all on talks on the topic of preventive diplomacy.<sup>30</sup>

The adoption in 2001 of three further key documents was a further vital step towards increasing the emphasis on preventive diplomacy. In the vocabulary of the ARF, the idea of the overlap between the phase of CBMs and that of preventive diplomacy plays a key role. The relevant documents are as follows:

- *Enhanced Role of the ARF Chair* – among other things, this envisages granting the Chairman opportunities to influence and co-ordinate. He would act as the contact person for consultations and be granted the right to call *ad hoc* meetings and to organize informal co-operation with third parties, such as the chairmen of international and other organizations.<sup>31</sup>
- *Concept and Principles of Preventive Diplomacy* – this defines the concept and eight basic principles of preventive democracy, considered not as a legally binding obligation, but as a common understanding of consensual diplomacy and political action carried out by sovereign states, with the agreement of the directly involved parties in each case.<sup>32</sup>
- *Co-Chair's Paper on the Terms of Reference of the ARF Eminent/Expert Persons (EEPs)* – this foresees the creation of a kind of council of eminent persons. The members of this body would be available to the Chairman as a pool of expertise that could be called to perform specific tasks. Each ARF member country would have the right to nominate five candidates from among its own people. A register of EEPs will be kept, they will have the status of ARF advisors and present their views as non-binding professional opinions or recommendations. Not only the

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29 Cf. *Chairman's Statement*, cited above (Note 14).

30 Cf. *Chairman's Statement* and *The ASEAN Regional Forum - A Concept Paper*, cited above (Note 12).

31 Cf. *The Eighth ASEAN Regional Forum*, Hanoi 2001.

32 Cf. *ibid.*

Chairman but any ARF member state may call upon the services of EEPs.<sup>33</sup> Further details of the EEP mechanism were determined at the Eleventh ARF (Jakarta 2004).<sup>34</sup> Nonetheless, the EEPs were not formally entrusted with carrying out research or analysis until 2005, but were merely invited to SOMs on preventive diplomacy. Further progress is being held up by differences of opinion between ARF members over the question of whether the EEPs should primarily fulfil a passive research function or should rather have an active role in supporting the Chairman in carrying out diplomatic activities. The first plenary meeting of the EEPs was held in South Korea at the end of June 2006.

In the view of the ARF, the integration of CBMs and preventive diplomacy is also to be supported via the regular publication of the Annual Security Outlook and Voluntary Background Briefings on Regional Security Issues.

*The Emphasis on Subregional Security-Building and the North-East Asian Dialogue within the ARF*

The ARF expresses its views on regional, subregional, and bilateral developments. While it does take a position on conflicts such as those on the Korean peninsula or the situations in Indonesia and Myanmar, as mentioned, it does this without becoming directly involved.

The limited degree of ARF interference in the internal affairs of its member states is rooted in the strong diversity of political interests among the continent's key players. Their mutual security interests clearly reflect individual relationships at subregional level.

Consequently, the ARF adopts a pragmatic approach, according to which regional security building in Asia is best achieved on the basis of subregional components, themselves formed from bilateral dialogues. This is clearly illustrated by the *North-East Asian* dialogue offered by the ARF, which is of particular interest to the OSCE, although the ARF was founded on a *South-East Asian* platform (ASEAN). At the same time, the ASEAN+3 format, in particular, indicates the possibility of involving further parties in bilateral and subregional discussions to create a context that is less controversial for the concerned parties and hence more conducive to their success. As an example of this, the first East Asia Summit (Malaysia, December 2005), which was attended by Australia, New Zealand, India, and the ASEAN+3 nations, served a particularly valuable purpose by offering the "plus 3" states – Japan, China, and South Korea – a forum for discussion.<sup>35</sup> The lack of an

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33 Cf. *ibid.*

34 Cf. *The Eleventh ASEAN Regional Forum*, Jakarta 2004.

35 On related subregional security expectations see also: Yamada Takio, *First East Asia Summit and the Prospect of an East Asian Community*, at: <http://www.rieti.go.jp/en/events/bbl/06011201.html>.

Asian regional security organization that goes beyond specific issues (Korea, Taiwan, South China Sea) to create continent-wide bonds in the way the OSCE does has also been considered a deficit by many parties in northern Asia. Representatives of Japan and South Korea indicate their governments' desire to influence the creation of regional and subregional security networks as early as possible. They also underline the connection between the gradual formalization of a regional security dialogue and the simultaneous establishment of subregional contacts. This is where the ARF can play a key role and where opportunities exist to learn from European experiences with the CSCE process and the OSCE.

In general, it appears that subregional security building is being treated as a priority because of both the unequal concentration of economic and military potential and the cultural diversity of Asia's subregions. The ARF envisages precisely a pan-Asian context for establishing and maintaining individual subregional discussions, whose results may also at times be transferable to other subregions of Asia.

### *Co-operation between the ARF and Europe*

#### *Relations between ASEAN and the ARF with the European Union*

The origins of the ARF's co-operation with Europe are to be found in ASEAN's relations with Western Europe. These are based on the EC-ASEAN Co-operation Agreement of 1980 and the EU-ASEAN Dialogue, which has come with time to take on the form of regular Ministerial Meetings. Created in the wake of the 1980 agreement, the Joint Co-operation Committee (JCC) convenes once every year or eighteen months and is largely focused on economic matters. Its work is divided among six subcommittees: for Trade and Investment, Economic and Industrial Co-operation, Science and Technology, Forestry, Environment, and Narcotics.

In a communication entitled *Europe and Asia: A Strategic Framework for Enhanced Partnerships*, the European Commission declared ASEAN to be the most important economic and political partner in the EU's relations with Asia.

As mentioned above, thanks to its status as an ASEAN dialogue partner, the European Union is already a member of the ARF. As well as with Western Europe, the ARF also co-operates with Russia, a further ASEAN dialogue partner and ARF member. This is not always acknowledged in the European context.

ARF documents contain references to co-operation with the European Union since the Fourth ASEAN Regional Forum (Subang Jaya 1997), in particular.<sup>36</sup> Among the topics mentioned are joint events on specific issues in

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36 Cf. *Chairman's Statement*, cited above (Note 11).

the area of subregional co-operation (Fourth ARF), training measures for peacekeeping operations (Fifth ARF, Manila 1998), disaster preparedness and the regional provision of aid (Fifth ARF), and preventive diplomacy (Fifth ARF). Europe's involvement in the Korea process was welcomed (Eighth ARF, Hanoi 2001). The Ninth ARF (Bandar Seri Begawan 2002) saw a European Union briefing of the ISG on CBMs on European Security and Defence Policy (ESDP). The Tenth ARF (Phnom Penh, 2003) acknowledged contacts between the ARF Chairmanship and the EU and meetings between ARF and EU officials. In January 2003, the ARF and the EU adopted a joint declaration on co-operation in combating terrorism. The Eleventh ARF (Jakarta 2004) saw a European Union briefing of the ISG on CBMs on the European Security Strategy, the EU strategy against WMDs, and the International Criminal Court (ICC). The EU contributed to the Second ISM on Counter-Terrorism and Transnational Crime (Manila 2004). Chaired jointly by Cambodia and the EU, the ISG on CBMs met in Phnom Penh and Potsdam/Berlin in 2004/5. Overall, relations between the EU and the ARF reflect the fact that the latter is still at the start of its potential development.

#### *Relations between the ARF and the OSCE*

The ARF has sought contacts with the OSCE since the 1999 Thai Chairmanship. Under its Austrian Chairmanship in 2000, the OSCE reacted in a generally positive way to the ARF's desire for dialogue. After all, the OSCE, thanks to participating States including Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan, and partners such as Japan, South Korea, Mongolia, Thailand, and Afghanistan, is directly present in Asia.

Nonetheless, as relations between the two organizations develop, they remain on a modest scale. Although this is frequently criticized, it merely reflects the generally lukewarm level of interest, the dominance of EU-ASEAN relations in the relevant European-Asian contexts, and the difference between the OSCE and the ARF in terms of the depth of their involvement in their respective continents' security mechanisms.

It was agreed to initiate informal contacts with the OSCE at the Seventh ARF. Here it was also proposed that relations with the OSCE (and with the UN and the OAS) be used to continue the exchange of information and the sharing of experience.<sup>37</sup> Contacts between the ARF Chair and the OSCE were acknowledged at the Tenth ARF, while the Eleventh recorded the report of the ISG on CBMs and its recommendations on closer links with the OSCE.

Meetings between the OSCE and the ARF included the participation of ARF members in the OSCE-Thailand conferences (Bangkok 2002 and 2005) and the OSCE-Japan conferences (Tokyo 2000 and 2004). The second of the

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37 Cf. *Chairman's Statement*, The Seventh ASEAN Regional Forum, Bangkok, 27 July 2000.

two OSCE-Japan conferences was held at the same time as the ARF seminar on preventive diplomacy, whose attendees also visited it. In terms of both the topics it dealt with and meetings between experts, the Japan conference established a sense of compatibility and closeness between the two organizations; and this was later referred to several times. In 2005, the OSCE was also involved in the above-mentioned ISG on CBMs in Potsdam and Berlin, with representatives of the Organization reporting on the OSCE's counter-terrorism measures.

In 2005, then Secretary General Ján Kubiš proposed holding a joint OSCE-ARF conference.<sup>38</sup> OSCE partners for co-operation Japan and South Korea have expressed particularly strong interest in closer co-operation between the two organizations. In 2005, both proposed strengthening co-operation with the OSCE – Japan in reference to a possible exchange of information on the OSCE Code of Conduct, and South Korea in terms of co-operation on new security threats and the OSCE's experience of institutionalization.<sup>39</sup>

#### *The Parallels between the CSCE/OSCE and the ARF*

The history of ASEAN, like that of the CSCE, stretches back to the time of the Cold War. In the CSCE Final Act (Helsinki 1975), the Treaty on Amity and Cooperation in South-East Asia (1976), and subsequent rulings of both processes/organizations, we find similar norms and principles, such as the right of a state to choose its own political and social system, the settlement of international conflicts using peaceful means, and principles for economic co-operation. The principles of state sovereignty and the consensus rule both apply in the OSCE and in the ARF. In a way similar to the earlier CSCE process, the current ARF can be considered as an open cycle of conferences on security issues.

In contrast to the OSCE, the ARF does not encompass an entire continent but merely a selection of interested states. Furthermore, it did not arise from a bipolar confrontation. It rather serves the purpose of discussing a range of separate, if more or less interdependent, subregional security issues. In contrast to Europe, Asia has no agreement on a core concept of security of whatever form.

With the example of its creation, its norms, principles and commitments, and structures, the OSCE offers a range of features that the ARF could seek to emulate. It possesses a unified concept of security that is recognized by all European states without exception and is politically binding throughout the continent. As is well known, this includes guiding principles for interstate

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38 Cf. OSCE-Thailand Conference Opening Statement on *Sharing of Experiences in Combating Trafficking in Human Beings: Opportunities for Cooperation*, Bangkok 2005.

39 Cf. *New Security Threats and a New Security Paradigm*, Concept Paper, South Korea, PC.DEL/1/05.

relations, the universal and comprehensive approach to security and the division into three dimensions, the Platform for Co-operative Security, the Security Strategy for the 21st Century, and rules for co-operation with partners outside the OSCE region. The OSCE can offer the Asian continent comparative benefits for co-operation such as its experience in managing conflicts at the national and regional level. It has experience in dealing with simultaneous state failure, local and regional conflicts, and economic and political transformation. Leading OSCE States have expertise in the settlement of global tensions, and the management and peaceful reunification of nations that are divided into two states. The OSCE and its participating States also have experience relating to complex human tragedies such as ethnic cleansing and terrorist attacks.

While Europe today is an essentially stable region, whose peripheries remain the only zones where a greater or lesser degree of instability may be found, Asia is characterized not only by rapid economic growth but also by high levels of military spending and open or latent tensions. There are obvious reasons, therefore, why transfer of the OSCE's security expertise to Asia could be beneficial. Moreover, it is the openly expressed interest of the OSCE participating States to counteract any threat originating in regions adjacent to Europe through the early identification of joint interests and opportunities for co-ordinated action in the future. The OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century makes mention of co-operation with relevant regional organizations. Co-operation between the OSCE and the ARF could easily be based upon co-operation between the OSCE and its existing partners. This was most recently dealt with in the Decision on Further Dialogue and Co-operation with the Partners for Co-operation and Exploring the Scope for Wider Sharing of OSCE Norms, Principles and Commitments with Others<sup>40</sup> as well as being discussed in detail in the Ladsous Report (June 2001)<sup>41</sup> and in the Härkönen Report of October 2004.<sup>42</sup>

For their part, ASEAN and the ARF have indicated their intention of intensifying external dialogue on security issues several times, including in the Singapore Declaration (ASEAN 1992) and in the Chairman's Statement at the First ARF (Bangkok 1994). The ASEAN Bali Concord II underlines the desire of the ASEAN Security Community to seek better co-operation with the UN and other international and regional organizations.

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40 OSCE, Permanent Council, Decision No. 571/Corrected re-issue, *Further Dialogue and Co-operation with the Partners for Co-operation and Exploring the Scope for Wider Sharing of OSCE Norms, Principles and Commitments with Others*, PC.DEC/571/Corr.1, 2 December 2003.

41 *Draft Report on Recommendations Concerning Future Applications for Partnership*, PC/DEL.344/01/Rev.3.

42 *Finnish Food for Thought Paper on the Present State of Affairs and Potential Additional Fields of Co-operation and Interaction with the OSCE Mediterranean and Asian Partners for Co-operation*, PC.DEL/0366/04/Rev.1.

In discussing European-Asian security co-operation between the OSCE and the ARF, the most important topics are CBMs, preventive diplomacy, the fight against terrorism, small arms and light weapons (SALW), and trafficking. In these fields, it is possible to identify not only opportunities for the mutual transfer of security-relevant experience, but also potential security benefits for both sides.

The ARF lacks the institutional preconditions for operational activities. It has a need for a powerful secretariat, or, at the very least, a larger unit within the ASEAN Secretariat. If the role of the Chairman were to be strengthened, he could become active in the time between the forums and could even offer mediation services on his own account.

The areas dealt with by the ARF and those covered by the OSCE are fundamentally identical. However, the ARF has so far done little beyond the level of CBMs, and only a few of those activities are comparable with the work carried out by the OSCE.

#### *The Interests of Selected States in Co-operation between the OSCE and the ARF*

For the ARF, co-operation with the OSCE takes on particular political significance because of the EU and the participating States central to European and Asian security – France, Germany, Russia, Turkey, the UK, and the USA. The attractiveness of Central Asia to both Europe and Asia could also be significant.

The key interests of the states considered below in security co-operation within the ARF framework and between the ARF and the OSCE vary from case to case. The following descriptions summarize above all the statements of the EU, Japan, South Korea, and Thailand in the Sixth ARF Annual Security Outlook (Vientiane 2005). They also draw upon statements made in the OSCE context and conversations held by the author with diplomatic representatives of the various countries in Vienna in April/May 2004 and September 2005.

#### *The Position of the European Union*

The EU's statements in the ARF context have been based on the Security Strategy it adopted in 2003 and the key threats to security defined therein, such as terrorism, the proliferation of WMDs, regional conflicts, state failure, and organized crime. The EU considers multilateral activities as a means of combating these threats. The framework for EU activities in Asia is, above all, ASEM, which convenes biennially. In this forum, the EU focuses primarily on the fight against terrorism. In the ARF context, the EU also stresses its efforts in preventing WMD proliferation and in promoting disarmament on the

Asian landmass – work in which it collaborates with the UN and other international expert organizations. As well as these general topics, the security interests that the EU raises within the ARF are mostly focused on specific bilateral problems such as the questions of Korea and Taiwan. The fact that the European Union has not yet formulated its position on how to instrumentalize the OSCE in various fields in the context of the CFSP has been raised several times in the current discussion on OSCE reform. This defect also has an effect on the reluctance of the OSCE to adopt decisions on co-operation with the ARF.

### *The Position of Japan*

In its ARF statements, Japan makes reference to traditional and, above all, non-traditional dangers, such as the rise of non-state actors (especially terrorist organizations) and the proliferation of WMDs and ballistic missiles. Japan believes that states are becoming increasingly interdependent, while also stressing the juxtaposition in the Asia-Pacific region of large-scale disarmament (i.e. on the part of Russia) and ongoing extremely high troop levels and modernization efforts.

Japan shares the view of most that establishing a security organization in Asia that functioned effectively, especially in Track-One terms, would be extremely complicated. Maintaining long-term Track-Two relations appears to be more feasible. It might be assumed that Japan's expectations of the ARF would be relatively modest. In fact, however, Japan is one of the most active ARF states in terms of proposing initiatives, and consistently contributes to both its everyday work and to planning its future development. Japan assumes that questions such as that of China's growing military potential are beyond the scope of the ARF. Consequently, on issues such as military transparency and arms budgets, the ARF context saw nothing more than unilateral statements – and these topics were otherwise dealt with in a bilateral framework. Nonetheless, Japan apparently sees a possibility that the ARF could develop over time into an effective security instrument for Asia as a whole and for some of Asia's subregions. Japan is evidently interested in an expansion of preventive diplomacy and the assumption of a dispute settlement function by the ARF. In addition, from a Japanese point of view, the ARF opens up opportunities for bilateral and multilateral co-operation with security organizations within the region and beyond, and especially with Europe. In this connection, Japan has explicitly expressed its desire for co-operation and information exchange between the OSCE and the ARF, and its interest in reaching a joint understanding on the security situation in Europe and Asia.

In line with the new guidelines of its national defence programme (December 2004) Japan relies above all on threat prevention, especially by means of actively improving the international security environment. Japan's actions in the ARF and the OSCE should be seen in this context.

Japan sees the OSCE as a source of information and security expertise. It emphasizes the territorial overlap between the European OSCE and the continent of Asia. Above all, Japan is interested in European experiences in Central Asia. Japan refers to the specific regional contact it enters into via the “Central Asia plus Japan” dialogue. In addition, Japan occasionally mentions the possibility of a partnership between the OSCE and China. This is seen as an opportunity not only to familiarize China with European experience in the field of security, and to discuss this with the OSCE Asian partners, but possibly also to encourage China to engage in similar activities in the Asian context.

Japan co-operates with the OSCE in many different ways. These include regular participation at annual OSCE events, the financing of events such as the two OSCE-Japan conferences, financial contributions to missions, the Secretariat, and activities on specific issues, and the secondment of experts, observers, and trainees to OSCE field missions and other OSCE institutions. Japan has suggested inviting interested ARF members to meetings of the Forum for Security Co-operation (FSC).

### *The Position of South Korea*

South Korea’s statements in the ARF point out, in particular, the fluctuating relationship between the main players in international security while recognizing that the main tendency is towards stability. South Korea’s view of security stresses above all the danger of unwelcome side-effects stemming from globalization. It believes that these manifest themselves above all in growing inequality, expansion of cross-border goods and passenger traffic, and a resulting increase in transnational problems such as terrorism, trafficking in drugs and human beings, epidemics, WMD proliferation (including their acquisition by terrorist groups), and heightened competition for natural resources and energy.

Within the *North-East-Asian* region, South Korea recognizes economic dynamism and intraregional interdependence as positive factors, but also considers economic growth as a cause of shifts in the regional balance of power. Links between these shifts and new nationalisms are seen to carry danger. South Korea has identified a double security challenge for North-East Asia in the combination of traditional (territorial disputes), and non-traditional (terrorism, international crime, piracy, environmental degradation and environmental risks, energy shortages) dangers. South Korea hosted the OSCE-Korea conference in Seoul in April 2005 to discuss these issues under the heading of New Security Threats and a New Security Paradigm.

For obvious reasons, South Korea emphasizes the development of regional CBMs. South Korea has criticized the slow pace of various international security processes involving the ARF, ASEAN+3, NEACD, APEC, and ASEM, while simultaneously recognizing the potentially groundbreaking

role of the Six-Party Talks.<sup>43</sup> South Korea would like to see them become the starting point for developments analogous to those that could be observed in Europe in the CSCE process and, later, in the OSCE.<sup>44</sup> The Six-Party Talks are cited as an example of subregional co-operation in which South Korea also detects important potential security sources for Asia. South Korea would like to see stronger multilateral security co-operation in North-East Asia, and believes the ARF could play a key role in this.<sup>45</sup>

South Korea is interested in closer and more egalitarian involvement in the work of the OSCE, and is critical of Japan's privileged status in the group of OSCE partners.<sup>46</sup>

Thanks to its principles of equality and consensus, the OSCE may offer South Korea a better model of security processes in (North-East) Asia than NATO could. In addition, from the South Korean perspective, the OSCE's early experience in particular – i.e. the CSCE process – could provide a model for current Asian security-building efforts.

South Korea welcomes the statements of the OSCE Panel of Eminent Persons on regional and subregional co-operation. In the document they produced in 2005, *Common Purpose – Towards a More Effective OSCE*,<sup>47</sup> the Eminent Persons recommended co-operating with suitable partner organizations and placing field activities in regional and subregional contexts. They also advised the OSCE to remain prepared to contribute to security and democracy in OSCE partner countries, and this is certainly applicable to the ARF context, among others.

South Korea is interested above all in the OSCE's first basket and CBMs with regard to its relations with China, Japan, South Korea, and North Korea. With a view to subregional co-operation, South Korea also notes that a possible partnership between the OSCE and China would create new opportunities in the context of North-East Asia. At the same time, South Korea has pointed out the relatively low subregional significance of the ARF compared to an organization such as the Shanghai Cooperation Organization.

### *The Position of Thailand*

Among the members of the ARF, Thailand is the only ASEAN state that is also an OSCE partner. As a result of its geographical position, Thailand particularly stresses those changes in the perception of Asian security that have

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43 The Six-Party Talks are a series of meetings held between six participating States: China, Japan, North Korea, South Korea, Russia, and the USA.

44 Cf. Park Song-wu, Seoul to Hold Multilateral Security Forum, in: *The Korea Times*, 29 June 2006, at: <http://times.hankooki.com/lpage/nation/200606/kt2006062918055711990.htm>.

45 Cf. *ibid.*

46 Japan tends to provide a sort of an answer to assorted comments on its special status within the group of Asian OSCE partners by referring to the scale of its voluntary contributions to the OSCE budget.

47 Reprinted in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2005*, Baden-Baden 2006, pp. 359-379.

placed the stability of the continent in a broader Asian-Pacific context, and which have been institutionalized, for instance, in the form of the CSCAP and the APEC.

The security issues that Thailand stresses most include not only traditional threats and non-traditional dangers such as terrorism, transnational crime, and maritime security, but also epidemics and natural disasters. Thailand considers these as threats to states and to human security.

Human security is a central concept in Thailand's understanding of security – and not only in terms of foreign policy (Thailand has a ministry for human security). Thailand considers this to be the most important field for the prevention of threats to security – above all via development programmes for underprivileged social groups. During its chairmanship of the Human Security Network in 2005-2006, Thailand has addressed above all the two topics of freedom from fear and freedom from want.

Topics included under the heading of freedom from fear encompass the elimination of landmines and efforts to stop the spread of weapons. Freedom from want focuses mainly on promoting human-centred development and combating poverty.

Questions that Thailand considers to be at the intersection of these two fields are the promotion of human rights and the fight against HIV/AIDS. The conference held in Thailand in June 2005 on Sharing of Experiences in Combating Trafficking in Human Beings: Opportunities for Cooperation facilitated the exchange of views between OSCE representatives, their Asian cooperation partners, and ARF members. In 2006, Thailand is hosting the OSCE-Thailand conference in Bangkok on the topic of Challenges to Global Security: From Poverty to Pandemic. In the field of counter-terrorism, Thailand's position in the ARF concentrates on the exchange of information and intelligence, document security, and the implementation of legal precautions. This was also the focus of the Third Intersessional Meeting on Counter-Terrorism and Transnational Crime (Bangkok, April 2005). The harmonization of legislation governing extradition and mutual legal assistance was addressed by Thailand at two workshops of the Legal Issues Working Group of the Bali Regional Ministerial Meeting on Counter-Terrorism. In the UN context, Thailand has stressed efforts to prevent the acquisition of weapons of mass destruction by terrorist and criminal groups.

Thailand argues that a standing invitation (i.e. one that does not need to be renewed but is valid for all time) from the OSCE to its partners to attend OSCE events would be desirable. So far, only Japan has received such an invitation. From the Thai point of view, this creates an (undesirable) two-tier system of OSCE partners. Thailand is interested in continuity in relations with the OSCE and is striving to put contacts between the OSCE and the ARF on a more permanent basis and to give them a more processual character. At the 2002 OSCE-Thailand conference, Thailand favoured formalizing relations between the two organizations. At the same time, Thailand sees the

possibility of a link between the Korea process and the ARF process. Thailand has proposed examining joint training activities in Thailand for ASEAN and ARF members. This suggestion touches above all on the human dimension of security.

*Recommendations for Co-operation between the OSCE and the ARF*

Regardless of the clear parallels in the development and (intended) functions of the OSCE and the ARF, co-operation between the two organizations is likely to remain on a modest scale. The two organizations are either no longer or perhaps not yet able to count themselves among the dominant security players on their respective continents. The OSCE finds itself in a crisis of adaptation, while the ARF is still in the early stage of its existence.

A stronger emphasis on OSCE external relations and thus on co-operation with partner organizations such as the ARF would therefore seem most likely in the event of the current discussions on OSCE reform achieving only limited success. Nonetheless, the desire to co-operate that is voiced by many within both the OSCE and the ARF should not be ignored. This was underscored several times at the OSCE-Korea conference in April 2005 and the Ministerial Council in December 2005. In the following, detailed proposals are given, some of which have already been proposed by the OSCE or the ARF:

1. *Contacts at the highest level, invitations to annual events.* The proposed contacts between the Secretary Generals of OSCE and ASEAN could be placed in a more direct relationship with the ARF. At the same time, side events for ARF members could be organized within the scope of annual OSCE events or joint activities with OSCE partners, or these could be linked with topics of ARF interest. As the Chair of the Contact Group with the OSCE's partners in Asia in 2006, Slovenia has called for the invitation of the OSCE's Asian partners to such events to be applied consistently. A further symbolic means of stressing the co-operative relations between the OSCE and the ARF would be to hold a joint conference, as was proposed by the former OSCE Secretary General Ján Kubiš at the OSCE-Thailand conference in Bangkok, 2005.
2. *Inviting eminent/expert persons.* ARF eminent/expert persons could be invited to share experiences with OSCE institutions such as the HCNM, the Representative on Freedom of the Media (FOM), the Co-ordinator of OSCE Economic and Environmental Activities (CEEA), or with Personal Representatives and Envoys of the Chairman-in-Office.
3. *Track Two co-operation.* Because of the special significance of Track Two of the ARF, co-operation in the academic field appears as particularly attractive. This could take advantage of the OSCE Researchers-in-

Residence programme. It is also recommended that contacts be established between specialized European institutes and the *Council for Security Cooperation in the Asia Pacific* (CSCAP) – the umbrella organization of the ARF's Track-Two think tanks. There could be a role here for the OSCE Academy in Bishkek and its European partner institutes. In the long term, this could lead to the creation of a network of research institutes.

4. *Training initiatives.* It is recommended that OSCE training measures be implemented in its Central Asian participating States and that these be opened to the participation of ASEAN/ARF members. A proposal to this effect was already made at the OSCE-Thailand conference in 2002. This proposal also mentioned joint capacity-building in Asia and partnerships with OSCE institutions.
5. *Short visits, secondment, internships.* This proposal is to encourage, within the overall framework of co-operation with the OSCE partners in Asia, the OSCE Conflict Prevention Centre (CPC) to organize short visits to OSCE field missions or to restore the practice of secondments to field missions, to send invitations to participate in ODIHR election observation missions, or to arrange internships in Vienna. Invitations to participate in these activities could also be given to ARF states. It would also be conceivable to send invitations to the head or members of the ARF Unit at the ASEAN Secretariat.

#### *First Basket Recommendations*

6. *Sharing experience on CBMs and CSBMs.* The ARF's strong orientation towards confidence-building suggests the value of developing dialogue between the ARF and the OSCE in the area of CBMs and CSBMs. The applicability of relevant OSCE experiences to Asia was already raised at the OSCE-Korea conference in 2001. The OSCE's and ARF's different concepts of CBMs could be discussed, including the OSCE's entire range of measures and activities under the headings of security dialogue and arms control. Participants could also share experiences on the establishment of effective arms-export controls, which were recently dealt with in the ARF Statement on Non-Proliferation.<sup>48</sup>
7. *Co-operation in combating terrorism and organized crime.* With a view to co-operation in the fight against terrorism and cross-border organized crime, the OSCE Action against Terrorism Unit (ATU) could provide general advice on practical steps such as formulating anti-terrorist le-

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48 The ARF Statement on Non-Proliferation was adopted at the Eleventh ARF (Jakarta 2004). In it, the ARF members commit themselves to, among other things, compliance with or implementation of all multilateral disarmament and non-proliferation treaties that they have signed, including UN Security Council Resolution 1540 (2004) on the non-proliferation of weapons of mass destruction. Cf. *The Eleventh ASEAN Regional Forum*, Jakarta 2004.

gislation, strengthening the anti-terror capacities of individual ARF members, improving the effectiveness of the police, and developing border-management strategies.

8. *Dialogue within the OSCE FSC and the ARF ISG.* ARF members could be invited to FSC meetings or side events. The *Härkönen Paper* made a similar proposal, as did Japan. A further-reaching proposal jointly made by Belgium and Bulgaria raises the possibility of regular contacts between the FSC and other international organizations (such as the ARF).<sup>49</sup> Other possibilities would include the participation of OSCE experts in ARF ISG events or the holding of joint technical workshops.
9. *Sharing experience on SALW.* The OSCE and the ARF could hold joint events on the topic of SALW. Appropriate proposals have already been circulated by the OSCE CPC and in the *Härkönen Paper*.
10. *Co-operation on maritime security.* Given the importance of this topic, the possibility should be examined of the OSCE passing on to the ARF individual participating States' experience of dealing with maritime security issues and to seek to learn from the ARF's collective experience in turn. It should be noted that in Bali Concord II, maritime co-operation was given a special role in the development of the ASEAN Security Community.
11. *Sharing experience on conflict management.* There should be an exchange of views and experience on OSCE conflict management, including the management of territorial conflicts and legal disputes. This primarily concerns the OSCE's institutional experience in Vienna, The Hague, and the Organization's field missions. It could also include topics such as the OSCE Court of Conciliation and Arbitration. While this would anticipate potential ARF engagements, it would be relevant to activities such as the implementation of the Manila Declaration on the South China Sea (1992), which is not dealt with at ARF level but in an ASEAN-China Joint Working Group but nonetheless potentially affects the ARF.

#### *Second Basket Recommendations*

12. *Invitation to the Prague Economic Forum and preparatory seminars.* It would be possible for co-operation with the ARF to touch upon the OSCE's economic and environmental dimension. In particular, the preparatory events for the annual Economic Forum that are held in the Central Asian participating States, as well as the Forum itself, can provide an opportunity for side events involving ARF members. The invi-

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49 Cf. *Background Paper on Promoting dialogue and co-operation between OSCE Partners and participating States in the politico-military dimension: Assessment and possibilities for increased interaction and implementation*, circulated by Belgium and Bulgaria at the Annual Security Review Conference 2005, PC.DEL/577/05.

tation of OSCE partner organizations is, in any case, already an accepted aspect of the Forum. The entire range of topics within the economic and environmental dimension could be discussed here without exception.

### *Third Basket Recommendations*

It appears unlikely that topics such as the promotion of democracy, civilian control of the military, or the promotion of human and civil rights, which are so sensitive for many parties, could be dealt with at an official level. Nonetheless, as in the case of minority issues in basket one, there is no reason they could not be dealt with in Track Two.

13. *Exchange of views on technical issues.* Technical matters appear likely to provide the most scope for an exchange of views between the OSCE and the ARF in the human dimension. An example would be to involve ODIHR in the training of election monitors. The OSCE's partner states in Asia already take part in these activities. But regular events such as the annual Human Dimension Implementation Meeting could also be a location for sharing experiences with participants of the academic umbrella group CSCAP. There could also be an opportunity to put on side events involving interested ARF members.
14. *Exchange of views on trafficking, gender equality, anti-drugs efforts.* Any human dimension-related discussions should focus on cross-dimensional questions such as trafficking in human beings. This was already an issue at the OSCE-Thailand conference in 2002. Thought should be given as to the extent to which the OSCE Action Plan to Combat Trafficking in Human Beings can be translated to the ARF context. Gender equality and anti-drugs efforts are further topics for consideration.
15. *Training events in OSCE partner states.* It might be possible to hold training events on the human dimension in OSCE partner states, as proposed by Thailand for ASEAN and ARF members. These could be attended by experts from the OSCE or its participating States.



## Annexes



## Forms and Forums of Co-operation in the OSCE Area

G8 (Group of Eight)

Organization for Economic Co-operation and Development (OECD)

Council of Europe (CoE)

North Atlantic Treaty Organisation (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 WEU<sup>1</sup>

Associate Partners of the WEU

WEU Observers<sup>2</sup>

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)

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1 The WEU does not differentiate between associate and full members.

2 Observer status confers privileges restricted to information exchange and attendance at meetings in individual cases and on invitation.

Southeast European Co-operative Initiative (SECI)  
South Eastern European Co-operation Process (SEECF)  
SEECF Observers  
Black Sea Economic Co-operation (BSEC)

North American Free Trade Area (NAFTA)

Shanghai Cooperation Organization (SCO)

*Sources:*

OECD: [www.oecd.org](http://www.oecd.org)

Council of Europe: [www.coe.int](http://www.coe.int)

NATO: [www.nato.int](http://www.nato.int)

EU: [europa.eu](http://europa.eu)

WEU: [www.weu.int](http://www.weu.int)

Baltic Defence Council: [www.baltasam.org](http://www.baltasam.org)

Barents Euro-Arctic Council: [www.beac.st](http://www.beac.st)

Nordic Council: [www.norden.org](http://www.norden.org)

CBSS: [www.cbss.st](http://www.cbss.st)

Stability Pact for South Eastern Europe: [www.stabilitypact.org](http://www.stabilitypact.org)

CEFTA: ([www.cefta.org](http://www.cefta.org))

CEI: [www.ceinet.org](http://www.ceinet.org)

SECI: [www.secinet.org](http://www.secinet.org)

BSEC: [www.bsec-organization.org](http://www.bsec-organization.org)

NAFTA: [www.nafta-sec-alena.org](http://www.nafta-sec-alena.org)

# The 56 OSCE Participating States – Facts and Figures<sup>1</sup>

## 1. Albania

*Date of accession:* June 1991

*Scale of contributions:* 0.125 per cent (OSCE ranking: 40)<sup>2</sup>

*Area:* 28,748 km<sup>2</sup> (OSCE ranking: 45)<sup>3</sup>

*Population:* 3,581,655 (OSCE ranking: 41)<sup>4</sup>

*GDP per capita in international dollars at PPP rates<sup>5</sup>:* 4,900 (OSCE ranking: 46)<sup>6</sup>

*GDP growth:* 5.5 per cent (OSCE ranking: 19)<sup>7</sup>

*Armed forces (active):* 21,500 (OSCE ranking: 31)<sup>8</sup>

*Memberships and forms of co-operation:* CoE (1995), EAPC, PfP (1994), SAP, SAA (2003), Stability Pact for South Eastern Europe, CEI (1995), SECI, SEECF, BSEC.

## 2. Andorra

*Date of accession:* April 1996

*Scale of contributions:* 0.125 per cent (40)

*Area:* 468 km<sup>2</sup> (51)

*Population:* 71,201 (52)

*GDP per capita in international dollars at PPP rates:* 24,000 (22)<sup>9</sup>

*GDP growth:* 4 per cent (27)<sup>10</sup>

*Armed forces (active):* none

*Memberships and forms of co-operation:* CoE (1994).

## 3. Armenia

*Date of accession:* January 1992

*Scale of contributions:* 0.05 per cent (49)

*Area:* 29,800 km<sup>2</sup> (44)

*Population:* 2,976,372 (42)

*GDP per capita in international dollars at PPP rates:* 4,500 (48)

*GDP growth:* 13.9 per cent (2)

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1 Compiled by Jochen Rasch.

2 Of 55 states.

3 Of 56 states.

4 Of 56 states.

5 The international dollar is the hypothetical unit of currency used to compare different national currencies in terms of purchasing power parity. PPP is defined as the number of units of a country's currency required to buy the same amounts of goods and services in the domestic market as one US dollar would buy in the United States. See The World Bank, World Development Report 2002, Washington, D.C., 2002.

6 Of 48 states.

7 Of 52 states.

8 Of 54 states.

9 2004.

10 2004.

*Armed forces (active):* 48,160 (21)  
*Memberships and forms of co-operation:* CoE (2001), EAPC, PfP (1994), CIS (1991), BSEC.

#### **4. Austria**

*Date of accession:* June 1973  
*Scale of contributions:* 2.33 per cent (13)  
*Area:* 83,870 km<sup>2</sup> (29)  
*Population:* 8,192,880 (24)  
*GDP per capita in international dollars at PPP rates:* 32,700 (9)  
*GDP growth:* 1.9 per cent (44)  
*Armed forces (active):* 39,900 (23)  
*Memberships and forms of co-operation:* OECD (1961), CoE (1956), EAPC, PfP (1995), EU (1995), WEU Observer (1995), Stability Pact for South Eastern Europe, CEI (1989).

#### **5. Azerbaijan**

*Date of accession:* January 1992  
*Scale of contributions:* 0.05 per cent (49)  
*Area:* 86,600 km<sup>2</sup> (28)  
*Population:* 7,961,619 (25)  
*GDP per capita in international dollars at PPP rates:* 4,800 (47)  
*GDP growth:* 26.4 per cent (1)  
*Armed forces (active):* 66,740 (14)  
*Memberships and forms of co-operation:* CoE (2001), EAPC, PfP (1994), CIS (1991), BSEC.

#### **6. Belarus**

*Date of accession:* January 1992  
*Scale of contributions:* 0.31 per cent (30)  
*Area:* 207,600 km<sup>2</sup> (19)  
*Population:* 10,293,011 (19)  
*GDP per capita in international dollars at PPP rates:* 6,900 (44)  
*GDP growth:* 8 per cent (8)  
*Armed forces (active):* 72,940 (13)  
*Memberships and forms of co-operation:* EAPC, PfP (1995), CIS (1991), CEI (1995).

#### **7. Belgium**

*Date of accession:* June 1973  
*Scale of contributions:* 3.34 per cent (11)  
*Area:* 30,528 km<sup>2</sup> (43)  
*Population:* 10,379,067 (18)  
*GDP per capita in international dollars at PPP rates:* 31,400 (11)

*GDP growth:* 1.5 per cent (47)  
*Armed forces (active):* 36,950 (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 contributions:* 0.125 per cent (40)  
*Area:* 51,129 km<sup>2</sup> (36)  
*Population:* 4,498,976 (36)  
*GDP per capita in international dollars at PPP rates:* 6,800 (45)  
*GDP growth:* 5.3 per cent (23)  
*Armed forces (active):* 11,865 (37)  
*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 contributions:* 0.55 per cent (26)  
*Area:* 110,910 km<sup>2</sup> (23)  
*Population:* 7,385,367 (27)  
*GDP per capita in international dollars at PPP rates:* 9,600 (37)  
*GDP growth:* 5.5 per cent (19)  
*Armed forces (active):* 51,000 (20)  
*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 contributions:* 5.53 per cent (7)  
*Area:* 9,984,670 km<sup>2</sup> (2)  
*Population:* 33,098,932 (11)  
*GDP per capita in international dollars at PPP rates:* 34,000 (8)  
*GDP growth:* 2.9 per cent (39)  
*Armed forces (active):* 62,100 (17)  
*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 contributions:* 0.19 per cent (33)

*Area:* 56,542 km<sup>2</sup> (35)

*Population:* 4,494,749 (37)

*GDP per capita in international dollars at PPP rates:* 11,600 (35)

*GDP growth:* 4 per cent (27)

*Armed forces (active):* 20,800 (33)

*Memberships and forms of co-operation:* CoE (1996), EAPC, PfP (2000), EU Accession Negotiations (2004), SAA (2001), Stability Pact for South Eastern Europe, CEFTA, CEI (1992), SECI, SEECF.

### **12. Cyprus**

*Date of accession:* June 1973

*Scale of contributions:* 0.19 per cent (33)

*Area:* 9,250 km<sup>2</sup> (49)<sup>11</sup>

*Population:* 784,301 (47)<sup>12</sup>

*GDP per capita in international dollars at PPP rates:* 21,600 (24)

*GDP growth:* 10.6 per cent (4)

*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 contributions:* 0.60 per cent (23)

*Area:* 78,866 km<sup>2</sup> (30)

*Population:* 10,235,455 (20)

*GDP per capita in international dollars at PPP rates:* 19,500 (27)

*GDP growth:* 6 per cent (16)

*Armed forces (active):* 22,272 (30)

*Memberships and forms of co-operation:* OECD (1995), CoE (1993), NATO (1999), EAPC, PfP (1994), EU (2004), Associate Member of the WEU (1999), Stability Pact for South Eastern Europe, CEI (1990/1993).

### **14. Denmark**

*Date of accession:* June 1973

*Scale of contributions:* 2.02 per cent (15)

*Area:* 43,094 km<sup>2</sup> (39)

*Population:* 5,450,661 (29)

*GDP per capita in international dollars at PPP rates:* 34,600 (6)

*GDP growth:* 3.4 per cent (36)

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11 Greek sector: 5,895 km<sup>2</sup>, Turkish sector: 3,355 km<sup>2</sup>.

12 Total of Greek and Turkish sectors.

*Armed forces (active):* 21,180 (32)

*Memberships and forms of co-operation:* OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1973), WEU Observer (1992), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1992), Stability Pact for South Eastern Europe.

### **15. Estonia**

*Date of accession:* September 1991

*Scale of contributions:* 0.19 per cent (33)

*Area:* 45,226 km<sup>2</sup> (38)

*Population:* 1,324,333 (46)

*GDP per capita in international dollars at PPP rates:* 16,700 (29)

*GDP growth:* 9.6 per cent (6)

*Armed forces (active):* 4,934 (45)

*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 contributions:* 1.92 per cent (16)

*Area:* 338,145 km<sup>2</sup> (13)

*Population:* 5,231,372 (31)

*GDP per capita in international dollars at PPP rates:* 30,900 (12)

*GDP growth:* 2.2 per cent (42)

*Armed forces (active):* 28,300 (26)

*Memberships and forms of co-operation:* OECD (1969), CoE (1989), EAPC, PfP (1994), EU (1995), WEU Observer (1995), Barents Euro-Arctic Council, Nordic Council (1956), CBSS (1992), Stability Pact for South Eastern Europe.

### **17. France**

*Date of accession:* June 1973

*Scale of contributions:* 9.35 per cent (2)

*Area:* 547,030 km<sup>2</sup> (7)

*Population:* 60,876,136 (5)

*GDP per capita in international dollars at PPP rates:* 29,900 (16)

*GDP growth:* 1.4 per cent (48)

*Armed forces (active):* 254,895 (5)

*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 contributions:* 0.05 per cent (49)

*Area:* 69,700 km<sup>2</sup> (32)

*Population:* 4,661,473 (34)

*GDP per capita in international dollars at PPP rates:* 3,300 (51)

*GDP growth:* 7 per cent (14)

*Armed forces (active):* 11,320 (38)

*Memberships and forms of co-operation:* CoE (1999), EAPC, PfP (1994), CIS (1993), BSEC.

## **19. Germany**

*Date of accession:* June 1973

*Scale of contributions:* 9.35 per cent (2)

*Area:* 357,021 km<sup>2</sup> (12)

*Population:* 82,422,299 (3)

*GDP per capita in international dollars at PPP rates:* 30,400 (14)

*GDP growth:* 0.9 per cent (51)

*Armed forces (active):* 284,500 (4)

*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 contributions:* 0.98 per cent (19)

*Area:* 131,940 km<sup>2</sup> (22)

*Population:* 10,688,058 (16)

*GDP per capita in international dollars at PPP rates:* 22,200 (23)

*GDP growth:* 3.7 per cent (32)

*Armed forces (active):* 163,850 (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.

## **21. The Holy See**

*Date of accession:* June 1973

*Scale of contributions:* 0.125 per cent (40)

*Area:* 0.44 km<sup>2</sup> (56)

*Population:* 932 (56)

*GDP per capita in international dollars at PPP rates:* n/a

*GDP growth:* n/a

*Armed forces (active):* 110 (49)<sup>13</sup>  
*Memberships and forms of co-operation:* none.

## **22. Hungary**

*Date of accession:* June 1973  
*Scale of contributions:* 0.60 per cent (23)  
*Area:* 93,030 km<sup>2</sup> (25)  
*Population:* 9,981,334 (21)  
*GDP per capita in international dollars at PPP rates:* 16,300 (30)  
*GDP growth:* 4.1 per cent (26)  
*Armed forces (active):* 32,300 (25)  
*Memberships and forms of co-operation:* OECD (1996), CoE (1990), NATO (1999), EAPC, PfP (1994), EU (2004), Associate Member of the WEU (1999), Stability Pact for South Eastern Europe, CEI (1989), SECI.

## **23. Iceland**

*Date of accession:* June 1973  
*Scale of contributions:* 0.19 per cent (33)  
*Area:* 103,000 km<sup>2</sup> (24)  
*Population:* 299,388 (51)  
*GDP per capita in international dollars at PPP rates:* 35,600 (5)  
*GDP growth:* 5.7 per cent (17)  
*Armed forces (active):* none  
*Memberships and forms of co-operation:* OECD (1961), CoE (1950), NATO (1949), EAPC, EU Association Agreement (1996), Associate Member of the WEU (1992), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1995).

## **24. Ireland**

*Date of accession:* June 1973  
*Scale of contributions:* 0.75 per cent (21)  
*Area:* 70,280 km<sup>2</sup> (31)  
*Population:* 4,062,235 (39)  
*GDP per capita in international dollars at PPP rates:* 41,000 (4)  
*GDP growth:* 4.7 per cent (24)  
*Armed forces (active):* 10,460 (40)  
*Memberships and forms of co-operation:* OECD (1961), CoE (1949), EAPC, PfP (1999), EU (1973), WEU Observer (1992), Stability Pact for South Eastern Europe.

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13 Authorized strength 100-110 members of the Swiss Guard, cf. at: [http://www.vatican.va/roman\\_curia/swiss\\_guard/500\\_swiss/documents/rc\\_gsp\\_20060121\\_informazioni\\_it.html](http://www.vatican.va/roman_curia/swiss_guard/500_swiss/documents/rc_gsp_20060121_informazioni_it.html).

## **25. Italy**

*Date of accession:* June 1973

*Scale of contributions:* 9.35 per cent (2)

*Area:* 301,230 km<sup>2</sup> (16)

*Population:* 58,133,509 (7)

*GDP per capita in international dollars at PPP rates:* 29,200 (18)

*GDP growth:* 0.1 per cent (54)

*Armed forces (active):* 191,152 (7)

*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 contributions:* 0.36 per cent (28)

*Area:* 2,717,300 km<sup>2</sup> (4)

*Population:* 15,233,244 (15)

*GDP per capita in international dollars at PPP rates:* 8,200 (38)

*GDP growth:* 9.2 per cent (7)

*Armed forces (active):* 65,800 (15)

*Memberships and forms of co-operation:* EAPC, PfP (1994), CIS (1991), SCO.

## **27. Kyrgyzstan**

*Date of accession:* January 1992

*Scale of contributions:* 0.05 per cent (49)

*Area:* 198,500 km<sup>2</sup> (20)

*Population:* 5,213,898 (32)

*GDP per capita in international dollars at PPP rates:* 2,100 (52)

*GDP growth:* 2 per cent (43)

*Armed forces (active):* 12,500 (36)

*Memberships and forms of co-operation:* EAPC, PfP (1994), CIS (1991), SCO.

## **28. Latvia**

*Date of accession:* September 1991

*Scale of contributions:* 0.19 per cent (33)

*Area:* 64,589 km<sup>2</sup> (34)

*Population:* 2,274,735 (43)

*GDP per capita in international dollars at PPP rates:* 13,200 (34)

*GDP growth:* 10.2 per cent (5)

*Armed forces (active):* 5,238 (44)

*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 contributions:* 0.125 per cent (40)

*Area:* 160 km<sup>2</sup> (53)

*Population:* 33,987 (53)

*GDP per capita in international dollars at PPP rates:* 25,000 (21)<sup>14</sup>

*GDP growth:* 11 per cent (3)<sup>15</sup>

*Armed forces (active):* none<sup>16</sup>

*Memberships and forms of co-operation:* CoE (1978), EU Association Agreement (1995), since 1923 Community of Law, Economy, and Currency with Switzerland.

### **30. Lithuania**

*Date of accession:* September 1991

*Scale of contributions:* 0.19 per cent (33)

*Area:* 65,200 km<sup>2</sup> (33)

*Population:* 3,585,906 (40)

*GDP per capita in international dollars at PPP rates:* 13,700 (32)

*GDP growth:* 7.5 per cent (10)

*Armed forces (active):* 13,510 (35)

*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 contributions:* 0.47 per cent (27)

*Area:* 2,586 km<sup>2</sup> (50)

*Population:* 474,413 (49)

*GDP per capita in international dollars at PPP rates:* 55,600 (1)

*GDP growth:* 3.7 per cent (32)

*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.

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14 1999 (estimated).

15 1999 (estimated).

16 In 1868, the armed forces were dissolved, cf. at: <http://www.liechtenstein.li/pdf-fl-multimedia-information-liechtenstein-bildschirm.pdf>.

### **32. Former Yugoslav Republic of Macedonia**

*Date of accession:* October 1995

*Scale of contributions:* 0.125 per cent (40)

*Area:* 25,333 km<sup>2</sup> (46)

*Population:* 2,050,554 (44)

*GDP per capita in international dollars at PPP rates:* 7,800 (42)

*GDP growth:* 3.7 per cent (32)

*Armed forces (active):* 10,890 (39)

*Memberships and forms of co-operation:* CoE (1995), EAPC, PfP (1995), EU Accession Negotiations (2005), SAP, SAA (2001), Stability Pact for South Eastern Europe, CEFTA, CEI (1993), SECI, SEECP.

### **33. Malta**

*Date of accession:* June 1973

*Scale of contributions:* 0.125 per cent (40)

*Area:* 316 km<sup>2</sup> (52)

*Population:* 400,214 (50)

*GDP per capita in international dollars at PPP rates:* 19,900 (26)

*GDP growth:* 1 per cent (50)

*Armed forces (active):* 2,237 (47)

*Memberships and forms of co-operation:* CoE (1965), EU (2004), Stability Pact for South Eastern Europe.

### **34. Moldova**

*Date of accession:* January 1992

*Scale of contributions:* 0.05 per cent (49)

*Area:* 33,843 km<sup>2</sup> (42)

*Population:* 4,466,706 (38)

*GDP per capita in international dollars at PPP rates:* 1,800 (53)

*GDP growth:* 7.1 per cent (13)

*Armed forces (active):* 6,750 (42)

*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 contributions:* 0.125 per cent (40)

*Area:* 1.95 km<sup>2</sup> (55)

*Population:* 32,543 (54)

*GDP per capita in international dollars at PPP rates:* 27,000 (19)<sup>17</sup>

*GDP growth:* 0.9 per cent (51)<sup>18</sup>

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17 2000 (estimated).

18 2000 (estimated).

*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. Montenegro<sup>19</sup>**

*Date of accession:* June 2006  
*Scale of contributions:* 0.19 (33)<sup>20</sup>  
*Area:* 13,812 km<sup>2</sup> (48)<sup>21</sup>  
*Population:* 630,548 (48)  
*GDP per capita in international dollars at PPP rates:* 3,800 (50)<sup>22</sup>  
*GDP growth:* n/a  
*Armed forces (active):* 65,300 (16)<sup>23</sup>  
*Memberships and forms of co-operation:* SAP.

### **37. Netherlands**

*Date of accession:* June 1973  
*Scale of contributions:* 4.16 per cent (9)  
*Area:* 41,526 km<sup>2</sup> (40)  
*Population:* 16,491,461 (14)  
*GDP per capita in international dollars at PPP rates:* 30,500 (13)  
*GDP growth:* 1.1 per cent (49)  
*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.

### **38. Norway**

*Date of accession:* June 1973  
*Scale of contributions:* 2.15 per cent (14)  
*Area:* 324,220 km<sup>2</sup> (14)  
*Population:* 4,610,820 (35)  
*GDP per capita in international dollars at PPP rates:* 42,300 (2)  
*GDP growth:* 3.9 per cent (30)  
*Armed forces (active):* 25,800 (29)  
*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.

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19 Figures may not reflect ongoing changes since the break-up of Serbia and Montenegro.  
20 This figure was calculated before the break-up of Serbia and Montenegro and refers to the former State Union.  
21 Website of the German Foreign Office, at: <http://www.auswaertiges-amt.de/diplo/de/Laender/Montenegro.html>.  
22 Lexas Information Network, at: [http://www.lexas.net/laenderdaten/wirtschaft/BIP\\_pro\\_kopf.asp](http://www.lexas.net/laenderdaten/wirtschaft/BIP_pro_kopf.asp).  
23 Combined figures for Serbia and Montenegro from 2005.

### **39. Poland**

*Date of accession:* June 1973

*Scale of contributions:* 1.34 per cent (17)

*Area:* 312,685 km<sup>2</sup> (15)

*Population:* 38,536,869 (10)

*GDP per capita in international dollars at PPP rates:* 13,300 (33)

*GDP growth:* 3.2 per cent (38)

*Armed forces (active):* 141,500 (11)

*Memberships and forms of co-operation:* OECD (1996), CoE (1991), NATO (1999), EAPC, PfP (1994), EU (2004), Associate Member of the WEU (1999), Observer of the Barents Euro-Arctic Council, CBSS (1992), Stability Pact for South Eastern Europe, CEI (1991).

### **40. Portugal**

*Date of accession:* June 1973

*Scale of contributions:* 0.98 per cent (19)

*Area:* 92,391 km<sup>2</sup> (26)

*Population:* 10,605,870 (17)

*GDP per capita in international dollars at PPP rates:* 19,300 (28)

*GDP growth:* 0.3 per cent (53)

*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.

### **41. Romania**

*Date of accession:* June 1973

*Scale of contributions:* 0.60 per cent (23)

*Area:* 237,500 km<sup>2</sup> (18)

*Population:* 22,303,552 (13)

*GDP per capita in international dollars at PPP rates:* 8,200 (38)

*GDP growth:* 4.5 per cent (25)

*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.

### **42. Russian Federation**

*Date of accession:* June 1973

*Scale of contributions:* 6.50 per cent (6)

*Area:* 17,075,200 km<sup>2</sup> (1)

*Population:* 142,893,540 (2)

*GDP per capita in international dollars at PPP rates:* 11,100 (36)

*GDP growth*: 6.4 per cent (15)  
*Armed forces (active)*: 1,027,000 (2)  
*Memberships and forms of co-operation*: G8 (1998), CoE (1996), EAPC, PfP (1994), NATO-Russia Council (2002), CIS (1991), Barents Euro-Arctic Council, CBSS (1992), Stability Pact for South Eastern Europe, BSEC, SCO.

#### **43. San Marino**

*Date of accession*: June 1973  
*Scale of contributions*: 0.125 per cent (40)  
*Area*: 61 km<sup>2</sup> (54)  
*Population*: 29,251 (55)  
*GDP per capita in international dollars at PPP rates*: 34,600 (6)<sup>24</sup>  
*GDP growth*: 7.5 per cent (10)<sup>25</sup>  
*Armed forces (active)*: none  
*Memberships and forms of co-operation*: CoE (1988).

#### **44. Serbia**<sup>26</sup>

*Date of accession*: June 1973  
*Scale of contributions*: 0.19 per cent (33)<sup>27</sup>  
*Area*: 88,361 km<sup>2</sup> (27)<sup>28</sup>  
*Population*: 9.396.411 (22)<sup>29</sup>  
*GDP per capita in international dollars at PPP rates*: 4.400 (49)<sup>30</sup>  
*GDP growth*: 5.5 per cent (19)  
*Armed forces (active)*: 65,300 (16)<sup>31</sup>  
*Memberships and forms of co-operation*: CoE (2003), SAP, Stability Pact for South Eastern Europe, CEI (1989/2000), SECI, SEECP.

#### **45. Slovakia**

*Date of accession*: January 1993  
*Scale of contributions*: 0.28 per cent (31)  
*Area*: 48,845 km<sup>2</sup> (37)  
*Population*: 5,439,448 (30)  
*GDP per capita in international dollars at PPP rates*: 16,100 (31)  
*GDP growth*: 5.5 per cent (19)  
*Armed forces (active)*: 20,195 (34)

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24 2001 (estimated).

25 2001 (estimated).

26 Figures may not reflect ongoing changes since the break-up of Serbia and Montenegro.

27 This figure was calculated before the break-up of Serbia and Montenegro and refers to the former State Union.

28 Website of the German Foreign Office, at: <http://www.auswaertiges-amt.de/diplo/de/Laender/Serbien.html>.

29 2002 census.

30 Lexas Information Network, at: [http://www.lexas.net/laenderdaten/wirtschaft/BIP\\_pro\\_kopf.asp](http://www.lexas.net/laenderdaten/wirtschaft/BIP_pro_kopf.asp).

31 Combined figures for Serbia and Montenegro from 2005.

*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, CEI (1990/1993).

#### **46. Slovenia**

*Date of accession:* March 1992

*Scale of contributions:* 0.2 per cent (32)

*Area:* 20,273 km<sup>2</sup> (47)

*Population:* 2,010,347 (45)

*GDP per capita in international dollars at PPP rates:* 21,600 (24)

*GDP growth:* 3.9 per cent (30)

*Armed forces (active):* 6,550 (43)

*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, CEI (1992), SECI.

#### **47. Spain**

*Date of accession:* June 1973

*Scale of contributions:* 4.58 per cent (8)

*Area:* 504,782 km<sup>2</sup> (8)

*Population:* 40,397,842 (9)

*GDP per capita in international dollars at PPP rates:* 25,500 (20)

*GDP growth:* 3.4 per cent (36)

*Armed forces (active):* 147,255 (10)

*Memberships and forms of co-operation:* OECD (1961), CoE (1977), NATO (1982), EAPC, EU (1986), WEU (1990), Eurocorps (1994), Stability Pact for South Eastern Europe.

#### **48. Sweden**

*Date of accession:* June 1973

*Scale of contributions:* 3.37 per cent (10)

*Area:* 449,964 km<sup>2</sup> (10)

*Population:* 9,016,596 (23)

*GDP per capita in international dollars at PPP rates:* 29,800 (17)

*GDP growth:* 2.7 per cent (40)

*Armed forces (active):* 27,600 (27)

*Memberships and forms of co-operation:* OECD (1961), CoE (1949), EAPC, PfP (1994), EU (1995), WEU Observer (1995), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1992), Stability Pact for South Eastern Europe.

#### **49. Switzerland**

*Date of accession:* June 1973

*Scale of contributions:* 2.81 per cent (12)

*Area:* 41,290 km<sup>2</sup> (41)  
*Population:* 7,523,934 (26)  
*GDP per capita in international dollars at PPP rates:* 32,300 (10)  
*GDP growth:* 1.8 per cent (45)  
*Armed forces (active):* 4,300 (46)  
*Memberships and forms of co-operation:* OECD (1961), CoE (1963), EAPC, PfP (1996), EU Association Agreement (rejected by referendum), Stability Pact for South Eastern Europe.

#### **50. Tajikistan**

*Date of accession:* January 1992  
*Scale of contributions:* 0.05 per cent (49)  
*Area:* 143,100 km<sup>2</sup> (21)  
*Population:* 7,320,815 (28)  
*GDP per capita in international dollars at PPP rates:* 1,200 (55)  
*GDP growth:* 8 per cent (8)  
*Armed forces (active):* 7,600 (41)  
*Memberships and forms of co-operation:* EAPC, PfP (2002), CIS (1991), SCO.

#### **51. Turkey**

*Date of accession:* June 1973  
*Scale of contributions:* 1.01 per cent (18)  
*Area:* 780,580 km<sup>2</sup> (5)  
*Population:* 70,413,958 (4)  
*GDP per capita in international dollars at PPP rates:* 8,200 (38)  
*GDP growth:* 5.6 per cent (18)  
*Armed forces (active):* 514,850 (3)<sup>32</sup>  
*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.

#### **52. Turkmenistan**

*Date of accession:* January 1992  
*Scale of contributions:* 0.05 per cent (49)  
*Area:* 488,100 km<sup>2</sup> (9)  
*Population:* 5,042,920 (33)  
*GDP per capita in international dollars at PPP rates:* 8,000 (41)  
*GDP growth:* 4 per cent (27)  
*Armed forces (active):* 26,000 (28)  
*Memberships and forms of co-operation:* EAPC, PfP (1994), CIS (1991).

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32 Being reduced.

### **53. Ukraine**

*Date of accession:* January 1992

*Scale of contributions:* 0.71 per cent (22)

*Area:* 603,700 km<sup>2</sup> (6)

*Population:* 46,710,816 (8)

*GDP per capita in international dollars at PPP rates:* 7,200 (43)

*GDP growth:* 2.4 per cent (41)

*Armed forces (active):* 187,600 (8)

*Memberships and forms of co-operation:* CoE (1995), EAPC, PfP (1994), NATO-Ukraine Charter/NATO-Ukraine Commission (1997), CIS (1991), CEI (1995), BSEC.

### **54. United Kingdom**

*Date of accession:* June 1973

*Scale of contributions:* 9.35 per cent (2)

*Area:* 244,820 km<sup>2</sup> (17)

*Population:* 60,609,153 (6)

*GDP per capita in international dollars at PPP rates:* 30,300 (15)

*GDP growth:* 1.8 per cent (45)

*Armed forces (active):* 216,890 (6)

*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.

### **55. USA**

*Date of accession:* June 1973

*Scale of contributions:* 11 per cent (1)

*Area:* 9,631,420 km<sup>2</sup> (3)

*Population:* 298,444,215 (1)

*GDP per capita in international dollars at PPP rates:* 41,800 (3)

*GDP growth:* 3.5 per cent (35)

*Armed forces (active):* 1,546,372 (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.

### **56. Uzbekistan**

*Date of accession:* January 1992

*Scale of contributions:* 0.35 per cent (29)

*Area:* 447,400 km<sup>2</sup> (11)

*Population:* 27,307,134 (12)

*GDP per capita in international dollars at PPP rates:* 1,800 (53)

*GDP growth:* 7.2 per cent (12)

*Armed forces (active):* 55,000 (18)

*Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991), SCO.*

*Sources:*

*Date of accession:*

*<http://www.osce.org/about/13131.html>*

*Scale of contributions:*

*<http://www.osce.org/item/17501.html>*

*Area:*

*<http://www.cia.gov/cia/publications/factbook/rankorder/2147rank.txt>*

*Population (estimated as of July 2006):*

*<http://www.cia.gov/cia/publications/factbook/rankorder/2119rank.txt>*

*GDP per capita in international dollars at PPP rates (estimated as of 2005, unless stated to the contrary):*

*<http://www.cia.gov/cia/publications/factbook/rankorder/2004rank.txt>*

*GDP growth (estimated as of 2005, 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 2005/2006

2005

24-29 July	Opening of two OSCE internet cafes for journalists, Almaty
August	Events to celebrate 30 years of the Helsinki Final Act in Helsinki, Vienna, Berlin, and more.
5 September-7 November	ODIHR Observation of the parliamentary elections in Azerbaijan
8-9 September	2005 Mediterranean Seminar, Rabat
19-30 September	ODIHR Human Dimension Implementation Meeting, Warsaw
21-22 September	Fourth sub-regional conference on environmental education and education for sustainable development in Central Asia, Almaty
7-9 October	Fall Meetings of the OSCE Parliamentary Assembly, Sveti Stefan
13-14 October	7th OSCE Central Asian Media Conference, Almaty
17 October-5 December	ODIHR Observation of the presidential election in Kazakhstan
19 October	OCEEA Training workshop for hotel managers on anti-trafficking efforts, Sofia
20-21 October	International conference on “The ombudsman in multi-ethnic societies”, Novi Sad
20 October	International E-Society Conference, Skopje
20-21 October	ODIHR International Implementation Conference on Roma, Sinti, Travellers, Warsaw
25 October	International E-Society Conference: Roundtable on cybercrime, Ohrid
27 October	OCEEA Movie night: Lilja 4-ever, Vienna
27 October	International E-Society Conference: Roundtable on freedom of the media on the Internet, Skopje
1 November	International E-Society Conference: Roundtable on e-government, Bitole
3-4 November	Supplementary Human Dimension Meeting on the Role of Defence Lawyers in Guaranteeing a Fair Trial, Tbilisi
7-8 November	First preparatory conference for the 14th Economic Forum: The role of transportation to enhance regional economic co-operation and stability, Dushanbe
7-8 November	Conference on Human Trafficking for Labour Exploitation and Forced and Bonded Labour: Identification – Prevention – Prosecution, Vienna

8-10 November	Regional co-operation workshop on the investigation of sexual crimes, Almaty
8 November	International E-Society Conference: Roundtable on e-education, Tetovo
10-12 November	Fifth Central Asian Festival for Ecological Journalism, Almaty
14-15 November	First regional conference on police education and training, Belgrade
18 November	OCEEA private sector meeting on anti-trafficking efforts, Podgorica
28 November	ODIHR Regional Conference on the Civil Registration of Roma in South Eastern Europe, Belgrade,
29-30 November	International workshop "National and International Anti-corruption Legal Instruments and Best Practices", Yerevan
4 December	Bureau Meeting of the Parliamentary Assembly, Ljubljana
5-6 December	OSCE Ministerial Council 2005, Ljubljana
8 December	International conference on anti-corruption legislation and its implementation in Serbia, Belgrade
14-16 December	National workshop on legal co-operation in criminal matters related to terrorism, organized by the Action against Terrorism Unit, Belgrade

#### 2006

1 January	Belgium takes over the OSCE Chairmanship from Slovenia. Belgian Foreign Minister Karel De Gucht becomes Chairman-in-Office
12 January	Meeting of the OSCE Permanent Council to announce the priorities of the Belgian Chairmanship, Vienna
13 January	OSCE Ministerial Troika meeting, Vienna
23-24 January	14th Economic Forum – part one: Transportation in the OSCE area: Secure transportation networks and transport development to enhance regional economic co-operation and stability, Vienna
24-25 January	High-level Ministerial Conference on Reinforcing the Area of Freedom, Security, Justice and Prosperity in the EU and its Neighbours, organized by the IOM, the Chairmanship of the OSCE and held under the auspices of the Austrian EU Presidency, Brussels

25-27 January	OSCE HCNM visits the Russian Federation
27 January	Commemorative ceremony for the victims of the Holocaust, Brussels
31 January	Inaugural ceremony of the Belgian Chairmanship of the OSCE, Brussels
9-10 February	International conference “Decriminalization of Defamation: Sharing Best Practices”, Skopje
9 February	OSCE HCNM presents recommendations on policing in multi-ethnic societies, Vienna
14-15 February	Forum for Security Co-operation, Seminar on Military Doctrine, Vienna
15-17 February	OSCE CiO visit to Podgorica, Pristina, and Belgrade
23-24 February	Winter Meeting of the OSCE Parliamentary Assembly, Vienna
23 February	OSCE HCNM addresses the OSCE Parliamentary Assembly’s Fifth Annual Winter Meeting, Vienna
6-8 March	OSCE HCNM visits Turkmenistan
12-14 March	OSCE ambassadors visit Serbia and Montenegro
16-17 March	Second preparatory conference for the 14th Economic Forum: The role of transport in promoting regional co-operation and security, Baku
17 March	High-level Conference on Combating Trafficking in Human Beings, Vienna
27-29 March	HCNM visits Moldova
30-31 March	First Supplementary Human Dimension Meeting of 2006, “Human Rights Defenders and National Human Rights Institutions: Legislative, State and Non-State Aspects”, Vienna
6-7 April	International conference “Strengthening Co-operation between the National Assembly, Civil Society and the Media in the Fight against Corruption”, Yerevan
19-21 April	OSCE HCNM visits Latvia
25-26 April	OSCE-Thailand conference on challenges to global security: from poverty to pandemic, Bangkok
4-5 May	ODIHR International Conference on the Implementation and Harmonization of National Policies on Roma, Sinti and Travellers: Guidelines for a Common Vision, Bucharest
4-5 May	Urban Transport Security workshop organized by the Action against Terrorism Unit, Vienna
10-12 May	Human Dimension Seminar on Upholding the Rule of Law and Due Process in Criminal Justice, Warsaw
18-19 May	Regional conference on combating trafficking in human beings in Central Asia, Astana

22-24 May	14th Economic Forum – part two: Transportation in the OSCE area: Secure transportation networks and transport development to enhance regional economic co-operation and stability, Prague
29 May	Conference on the role of Web and satellite TV in the relationships between people in the OSCE, Mediterranean and Middle Eastern areas, Brussels
31 May-2 June	OSCE HCNM visits Kyrgyzstan
12-13 June	Almaty meeting to promote inter-cultural, inter-religion and inter-ethnic understanding, Almaty
22 June	The OSCE welcomes Montenegro as 56th participating State
27-28 June	2006 Annual Security Review Conference, Vienna
3 July	HCNM presents major study on integration policies to the OSCE Parliamentary Assembly, Brussels
3-7 July	15th Annual Session of the OSCE Parliamentary Assembly, Brussels
12 July	Seminar: Building democracy through OSCE electoral assistance and observation, Brussels
13-14 July	Freedom of the Media: Protection of Journalists and Access to Information. Second Supplementary Human Dimension Meeting of 2006, Vienna
24-29 July	Expert Review Meeting on the Criminal Justice Assessment Toolkit, Brussels

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## Abbreviations

ACD	Asia Cooperation Dialogue
ACFC	Advisory Committee on the Framework Convention for the Protection of National Minorities
ACFE	Adapted Treaty on Conventional Armed Forces in Europe
ACMF	Advisory Committee on Management and Finance
AIAM	Annual Implementation Assessment Meeting
AMG	OSCE Advisory and Monitoring Group in Belarus
AP	Associated Press
APEC	Asia-Pacific Economic Cooperation
ARF	ASEAN Regional Forum
ARF-RMIC	ARF Regional Maritime Information Centre
ASC	ASEAN Security Community
ASEAN	Association of Southeast Asian Nations
ASEM	Asia-Europe Meeting
ASRC	Annual Security Review Conference
ATAU	Anti-Trafficking Assistance Unit
ATU	Action against Terrorism Unit
BCR	Black Sea-Caucasus region
BDG	Belaruskaya Delovaya Gazeta
BLACK-SEAFOR	Black Sea Naval Cooperation Task Group
BSEC	Black Sea Economic Co-operation
CBMs	Confidence-Building Measures
CBRN	Chemical, Biological, Radiological, and Nuclear (Materials)
CBSS	Council of the Baltic Sea States
CCIS	Center for Comparative Immigration Studies
CCR	Center for Constitutional Rights
CDE	Conference on Confidence- and Security-Building Measures and Disarmament in Europe
CEEA	Co-ordinator of OSCE Economic and Environmental Activities
CEELI	Central European and Eurasian Law Initiative (American Bar Association)
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
CiO	Chairman-in-Office

CIS	Commonwealth of Independent States
COMECON	Council of Mutual Economic Assistance
CORE	Centre for OSCE Research
CPC	Conflict Prevention Centre
CPRF	Communist Party of the Russian Federation
CRC	Convention on the Rights of the Child
CSBMs	Confidence- and Security-Building Measures
CSCAP	Council for Security Cooperation in the Asia Pacific
CSCE	Conference on Security and Co-operation in Europe (since January 1995 OSCE)
CSTO	Collective Security Treaty Organization
CTC	Counter-Terrorism Committee (UN Security Council)
CTED	Counter-Terrorism Committee Executive Directorate
CTN	Counter-Terrorism Network
DLB	Democratic League of Bosniaks (FYROM)
DOM	Democratic Reconstruction of Macedonia
DPA	Democratic Party of the Albanians (FYROM)
DPSM	Democratic Party of Serbs in Macedonia
DSCA	Document on Stockpiles of Conventional Ammunition
DUI	Democratic Union for Integration (FYROM)
EAPC	Euro-Atlantic Partnership Council
EBRD	European Bank for Reconstruction and Development
EC	European Commission
ECHR	European Convention on Human Rights
ECOSOC	(UN) Economic and Social Council
ECOWAS	Economic Community of West African States
ECRI	European Commission against Racism and Intolerance (Council of Europe)
ECSC	European Coal and Steel Community
ECtHR	European Court of Human Rights
EED	Economic and Environmental Dimension
EEPs	Eminent/Expert Persons (ARF)
ENP	European Neighbourhood Policy
EOM	Election Observation Mission
ESDP	European Security and Defence Policy (EU)
EU	European Union
EU BAM	EU Border Assistance Mission (to Moldova and Ukraine)
EUPAT	EU Police Advisory Team
FCNM	Framework Convention for the Protection of National Minorities
FIUs	Financial Intelligence Units
FMS	Federal Migration Service
FOIA	Freedom of Information Act

FOM	Representative on Freedom of the Media
FSB	Federalnaya Sluzhba Bezopasnosti Rossiiskoi Federatsii/(Russian) Federal Security Service
FSC	Forum for Security Co-operation
FYROM	The former Yugoslav Republic of Macedonia
G8	Group of Eight (Canada, France, Germany, Italy, Japan, Russia, UK, USA)
GDP	Gross Domestic Product
GPML	Global Programme against Money Laundering (UNODC)
GTZ	Gesellschaft für Technische Zusammenarbeit/German Agency for Technical Co-operation
GUAM	
States	Georgia, Ukraine, Azerbaijan, Moldova
HCNM	High Commissioner on National Minorities
HDIM	Human Dimension Implementation Meeting
HLPG	High Level Planning Group
IAEA	International Atomic Energy Agency
IAI	Initiative for ASEAN Integration
ICAO	International Civil Aviation Organization
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDPs	Internally Displaced Persons
IFES	International Foundation for Electoral Systems
IFOR	Implementation Force
IISEPS	Independent Institute for Socio-Economic and Political Studies
ILO	International Labour Organisation
IMF	International Monetary Fund
IMO	International Maritime Organization
IMU	Islamic Movement of Uzbekistan
INDEM	Information Science for Democracy
IOM	International Organization for Migration
IPI	International Press Institute
IPU	Inter-Parliamentary Union
IRMA	Integrated Resource Management
IRPT	Islamic Revival Party of Tajikistan
ISAF	International Security Assistance Force (Afghanistan)
ISG	Intersessional Support Group
ISMs	Intersessional Meetings
JCC	Joint Control Commission
JCC	Joint Co-operation Committee (EU-ASEAN)

LDP	Liberal Democratic Party (FYROM)
MANPADS	Man-portable air defence systems
NAFTA	North American Free Trade Area
NAMSA	NATO Maintenance and Supply Agency
NATO	North Atlantic Treaty Organisation
NEACD	Northeast Asia Cooperation Dialogue
NGOs	Non-Governmental Organizations
NPT	Nuclear Non-Proliferation Treaty
NSDP	New Social Democratic Party (FYROM)
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
PACE	Parliamentary Assembly of the Council of Europe
PC	Permanent Council
PCC	Project Co-ordination Cell (within the CPC)
PDK	Democratic Party of Kosovo
PDP	Party for Democratic Prosperity (FYROM)
PfA	Platform for Action (Beijing)
PfP	Partnership for Peace (NATO)
PIC	Peace Implementation Council (Bosnia and Herzegovina)
PIPA	Programme on International Policy Attitudes
PKK	Kurdistan Workers Party
PRCIO	Personal Representative of the Chairman-in-Office on the Conflict Dealt with by the OSCE Minsk Conference
REACT	Rapid Expert Assistance and Co-operation Teams
RIA	Roadmap for the Integration of ASEAN
RWB	Reporters Without Borders
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)

SARS	Severe Acute Respiratory Syndrome
SCO	Shanghai Co-operation Organization
SDSM	Social Democratic Union of Macedonia
SEANWFZ	Treaty on the Southeast Asia Nuclear Weapons Free Zone
SECI	Southeast European Co-operative Initiative
SEECF	South Eastern European Co-operation Process
SES	Single Economic Space
SFOR	Stabilisation Force
SME	Small and medium enterprises
SOMs	Senior Officials' Meetings (ARF)
SPMU	Strategic Police Matters Unit
SSR	Soviet Socialist Republic
TAC	Treaty of Amity and Cooperation
TACIS	Technical Assistance for the CIS (EU)
TDP	Democratic Party of Turks (FYROM)
TLE	Treaty Limited Equipment (CFE Treaty)
TRACECA	Transport Corridor Europe-Caucasus-Asia
UATI	Universal Anti-Terrorism Instruments
UCEPS	Ukrainian Centre for Economic and Political Studies
UÇK/NLA	Ushtria Çlirimtarë Kombëtarë/National Liberation Army (Macedonia)
UN/UNO	United Nations/United Nations Organization
UNCERD	United Nations Committee on the Elimination of Racial Dis- crimination
UNCHR	United Nations Commission on Human Rights
UNCRA	United Nations Register of Conventional Arms
UNDCP	United Nations Drug Control Programme
UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme
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
UNPROFOR	United Nations Protection Force
UNSC	United Nations Security Council

UNSCR	United Nations Security Council Resolution
UPRM	United Party of Roma in Macedonia
USAID	United States Agency for International Development
UWOM	Union of Women's Organizations of Macedonia
VMRO- DPMNE	Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity
VMRO-NP	Internal Macedonian Revolutionary Organization – People's Party
WCO	World Customs Organization
WMA	World Medical Association
WMD	Weapons of Mass Destruction
WSIW	World Summit on the Information Society
WTO	World Trade Organization
ZOPFAN	Zone of Peace, Freedom and Neutrality Declaration

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