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OSCE Mechanisms and Procedures Related to Early Warning, Conflict Prevention, and Crisis Management

Introduction

Early warning, conflict prevention, and crisis management have always been at the core of the OSCE, and the mechanisms and procedures available to the Organization to ensure the implementation of these key tasks date back to the early 1990s, and in some cases even earlier. Having been itself an instrument for conflict prevention during the Cold War, when it still had the form of the Conference on Security and Co-operation in Europe (CSCE), the OSCE has always been at the forefront of new thinking on preventing armed conflicts, early warning, and the peaceful settlement of crisis and conflict situations, turning such new thinking into concrete tools and actions.

The Origins of Recent Discussions on OSCE Mechanisms and Procedures

The origins of recent discussions on OSCE mechanisms and procedures related to early warning, conflict prevention, and crisis management can be traced to the aftermath of the 6 August 2007 missile incident in Georgia, and the subsequent address to the Permanent Council (PC) on 6 September by the Personal Representative of the Chairman-in-Office, Miomir Žužul, who proposed that the OSCE adopt a more forward-looking approach towards future efforts in crisis prevention. In the context of this recommended forward-looking approach, the Spanish OSCE Chairmanship presented a food-for-thought paper to the participating States in the Permanent Council on 25 September 2007, in which it elaborated on two concrete sets of measures: one that aimed at preventing similar incidents from happening; the second at strengthening confidence-building measures.

In particular, renewed attention was paid to the question of whether the OSCE could have done more to prevent crisis situations that had occurred in the past. Among the organizational measures the Chairmanship suggested were the appointment of a Personal Representative, who could “immediately intervene in case of an incident” – much in the spirit of preventive diplomacy or preventive mediation – and the compilation by the Secretariat of a list of experts with experience in crisis management who could be dispatched on

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short notice to perform fact-finding missions. The Chairmanship, in its conclusions, also emphasized that the OSCE already had, in its conflict prevention and crisis management toolbox, a series of mechanisms and procedures that could be applied and activated when incidents threatened peace and stability in the OSCE area.¹

As a follow-up measure, the OSCE Secretariat's Conflict Prevention Centre (CPC) assumed the task of preparing a survey of existing OSCE mechanisms and procedures related to early warning, conflict prevention, and crisis management, as contained in various OSCE documents. On 14 November 2007, the Director of the CPC, Ambassador Herbert Salber, presented the survey, which had been compiled by the CPC's Operation Service, to the 30th Joint Meeting of the Forum for Security Co-operation (FSC) and the Permanent Council. He posed two critical questions for consideration to the participating States: First, does the OSCE still need these existing mechanisms and procedures, or are other frameworks, including the Permanent Council, FSC, and the OSCE Chairman-in-Office Special Representatives, sufficient or even more effective in addressing and managing crisis situations? Second, if the participating States continue to view existing mechanisms and procedures as useful and necessary, how can they be made to correspond more closely to the Organization's current needs and to become more effective? Ambassador Salber's forward-looking proposals included the suggestion that the participating States consider a systematic review of existing mechanisms and procedures and the creation of a reference guide that would simplify the implementation of appropriate early warning, conflict prevention, and crisis management mechanisms.

Discussions of existing OSCE mechanisms and procedures were also carried into the 2008 Annual Security Review Conference (ASRC), where one of the three working sessions was devoted to the topic. One of the panelists noted in his presentation that "after having been almost 'forgotten' over a long period of time, OSCE's mechanisms in the security domain have recently been rediscovered and applied".² Since then, a number of participating States have continued to keep alive the debate over whether OSCE mechanisms and procedures should be used more concertedly, or whether even a new mechanism should be constructed that can be used to deal more effectively with current demands for crisis prevention.

1 See OSCE Chairmanship, Food for Thought Paper, *The 6 August 2007 Missile Incident – The Way Forward*, CIO/GAL/146/07, 25 September 2007.

2 *Speaking Notes for Dr. Arie Bloed for ASRC 2 July 2008*, PC.DEL/544/08, 30 June 2008.

*A Brief Summary of OSCE Mechanisms and Procedures*³

There are four categories of mechanisms and procedures available to the OSCE that are related to early warning, conflict prevention, and crisis management. These pertain to the human dimension, risk reduction, early warning and preventive action, and the peaceful settlement of disputes based on conciliation and/or arbitration.

The OSCE mechanisms and procedures introduced here have three commonalities: They are co-operative in nature, which means they have been developed within the context of the OSCE's concept of comprehensive and co-operative security. They were agreed by all participating States. And they require commitment and political will to be implemented in times of crisis and conflict situations.

The Human Dimension: Two important mechanisms fall into the human dimension category – the Vienna and the Moscow Mechanisms. These can be invoked by any participating State or group of States to mobilize rapid and concerted action when it comes to monitoring the implementation of commitments in the human dimension. Mechanisms pertaining to the human dimension developed gradually from the provisions foreseen in the Concluding Document of the Vienna Follow-up Meeting adopted in 1989 – known as the Vienna Mechanism. Changes were introduced during the Human Dimension Conferences in Copenhagen (1990) and Moscow (1991), which led to the so-called Moscow Mechanism.

The Vienna Mechanism can be invoked by any OSCE participating State, and may include the following actions: the exchange of information and response to requests for information; the convening of bilateral meetings with other participating States to review and examine questions related to the human dimension, including specific situations and cases; the bringing to attention of situations and cases in the human dimension by any participating State; and the providing of information regarding the above-mentioned actions at the Human Dimension Implementation Meeting (formerly, the Conference on the Human Dimension and the CSCE Follow-up Meetings).

Adopted at the third Human Dimension Conference in Moscow on 4 October 1991, the Moscow Mechanism was an expanded and strengthened version of the Vienna Mechanism. It was intended to further improve the implementation of human dimension commitments by the participating States. Accordingly, it provides for the possibility of establishing ad hoc missions of

3 For references, see OSCE Secretariat, Conflict Prevention Centre/Operations Service, *Compendium of OSCE Mechanisms and Procedures*, SEC.GAL/121/08, 20 June 2008, and OSCE Secretariat, Conflict Prevention Centre/Operations Service, *Summary of OSCE Mechanisms and Procedures*, SEC.GAL/120/08, 20 June 2008. For a summary of pertinent documents, see also OSCE Secretariat, Conflict Prevention Centre/Operations Service, *The OSCE Concept of Comprehensive and Co-operative Security: An Overview of Major Milestones*, SEC.GAL/100/09, 17 June 2009. The documents are available on the OSCE Conflict Prevention Centre website.

independent experts to explore specific cases and situations related to issues in the human dimension. A list of six experts appointed by each participating State for a period of three to six years was established. This list of experts continues to be managed by the OSCE Office for Democratic Institutions and Human Rights (ODIHR), which functions as the designated institution.

The Moscow Mechanism, amended at the 1993 Rome CSCE Council Meeting, may be activated through five different procedures. A participating State may voluntarily invite an ad hoc mission of experts, or it may be asked to invite a mission of experts. The other three procedures of activation cover those cases where the participating State in question refuses a mission or where a particularly serious threat to the human dimension has occurred. In such a case, participating States themselves can proceed without the consent of the requested state by establishing a mission of *rapporteurs*, or the Permanent Council may also decide to establish a mission of experts or *rapporteurs* upon the request of any participating State.

Since September 1991, there have been several documented activations, such as in 1992, when the United Kingdom, in a *note verbale*, requested an activation of the mechanism towards Croatia and Bosnia and Herzegovina, resulting in the dispatch of a mission of *rapporteurs* to investigate reported attacks on civilians. The latest activation was in 2002 in relation to a request for a *rapporteur* mission to Turkmenistan.⁴

Risk Reduction: After 1989, a series of specific mechanisms and procedures for reducing the risk of conflict arising or escalating were adopted, which reflected a greater willingness to co-operate on the part of the participating States. The OSCE's capabilities for early warning and conflict prevention were also strengthened via the creation of new decision-making structures, such as the Permanent Committee (renamed the Permanent Council in 1994) and the Forum for Security Co-operation. These risk reduction mechanisms built on those developed earlier in the course of the negotiations within the framework of the 1984-86 Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE), and on the confidence- and security-building measures (CSBMs) contained in the 1986 Document of the Stockholm Conference. They were first set forth in the Vienna Document 1990, and their present text can be found in the Vienna Document 1999, chapter III on "Risk Reduction". They include provisions on the "Mechanism for Consultation and Co-operation as Regards Unusual Military Activities", "Co-operation as Regards Hazardous Incidents of a Military Nature", and "Voluntary Hosting of Visits to Dispel Concern About Military Activities". Risk reduction measures such as the "Stabilizing Measures for Localized Crisis Situations" also provide for a series of measures in support of the political process during crisis situations. Another measure for

4 Further cases and details are provided in the *Summary of OSCE Mechanisms and Procedures*, *ibid.*

risk reduction is the 2001 Ministerial Council Decision No. 3 on “Fostering the Role of the OSCE as a Forum for Political Dialogue”.

Of particular importance is the “Mechanism for Consultation and Co-operation as Regards Unusual Military Activities” as it can provide for crisis prevention in the event of a threat that is posed by the deployment of armed forces. It is also one of the few mechanisms that have been used more recently – in 2008 – as will be explored in a subsequent section. By activating this mechanism, a participating State can request information from another regarding unusual and unscheduled activities of military forces outside their normal peacetime locations. The activation process features a series of steps beyond the request for clarification, including a meeting between the conflicting parties chaired by the Chairman-in-Office (or his or her representative) as well as a joint meeting of the Permanent Council and the Forum for Security Co-operation (FSC), where participating States can recommend appropriate measures for the stabilization of the crisis situation.

“Stabilizing Measures for Localized Crisis Situations” were adopted in November 1993 by the then Special Committee of the FSC as one of the documents of the Programme for Immediate Action.⁵ The document provides for a catalogue of stabilizing measures that may be applied individually or in various combinations, depending on the circumstances. The measures to be applied must be decided on by the appropriate OSCE body, and prior consent and active support of the parties involved in a particular crisis situation is required. Another risk reduction mechanism is Ministerial Council Decision No. 3, “Fostering the Role of the OSCE as a Forum for Political Dialogue”, adopted at the Ministerial Council in Bucharest in 2001, which allows for the FSC, upon the request of the Permanent Council, to make available its expert advice on issues of a politico-military nature.

There have only been a few incidents where risk reduction measures were activated, mostly between 1991 and 1999 – the earliest activations occurred in the context of the wars in Yugoslavia. As mentioned earlier, the most recent activation occurred in late May 2008.

Early Warning and Preventive Action: The third category of existing OSCE mechanisms and procedures refer to provisions related to early warning and preventive action. They date back to the 1992 Helsinki Document “The Challenges of Change”, which includes decisions on developing new structures and instruments related to the strengthening of early warning, conflict prevention, and crisis management. The Document featured not only the creation of a High Commissioner on National Minorities, with an explicit early warning mandate, but also mechanisms that can be used in a more ad hoc fashion. For example, participating States may draw the attention of the Permanent Council to a given crisis situation.

5 See FSC/Journal No. 49, Annex 2, adopted on 25 November 1993.

This category of mechanisms and procedures also includes those measures contained in the OSCE Document on Small Arms and Light Weapons and the Mechanism for Consultation and Co-operation with Regard to Emergency Situations, the so-called Berlin Mechanism, adopted in June 1991 at the Berlin Meeting of the CSCE Council of Ministers. This mechanism is particularly crucial, as it allows participating States to react to serious emergency situations, especially those endangering peace, security, and stability, and allows for any participating State to request clarification from another participating State or States in the context of such emergency situations.

Activation of the Berlin Mechanism has occurred on several occasions, primarily within the context of the Yugoslav wars. For example, on 28 June 1991, Luxemburg requested clarification from the Socialist Federal Republic of Yugoslavia in response to the conflict in that country. Several participating States seconded the request for an emergency meeting, which took place on 3 and 4 July 1991 and resulted in the offer of a CSCE good offices mission to Yugoslavia.

Peaceful Settlement of Disputes Based on Conciliation and/or Arbitration constitutes the fourth category of mechanisms and procedures. The 1975 Helsinki Final Act already specifically called for existing methods for the peaceful settlement of disputes to be complemented and mentioned the need to work further on the “Draft Convention on a European System for the Peaceful Settlement of Disputes” submitted by Switzerland.

While the commitment to the peaceful settlement of disputes is enshrined in many OSCE documents, including, in particular, the Helsinki Final Act, the 1989 Concluding Document of the Vienna Follow-up Meeting, the 1990 Charter of Paris for a New Europe, and the 1992 Helsinki Document, it should be noted that more formalized dispute settlement mechanisms were also created, based on conciliation and arbitration. These include the “Valletta Mechanism”, which was the first formal procedure for peaceful dispute settlement, entailing a fully fledged conciliation procedure that designated the Secretariat’s Conflict Prevention Centre (CPC) as the focal point for the establishment of the mechanism.

In 1992, the participating States also adopted “Provisions for a CSCE Conciliation Commission” and “Provisions for Directed Conciliation” as well as the “Convention on Conciliation and Arbitration within the CSCE”, which also established the Court of Conciliation and Arbitration. Unfortunately, to date, none of the adopted mechanisms and procedures for the peaceful settlement of disputes has been put into practice. As to the convention, so far only 33 participating States have signed and ratified it. It came into force in 1994, but so far has never been used.

Exploring the patterns of activation of OSCE mechanisms and procedures over the years, the following conclusions can be drawn: Most of the activations occurred in the first part of the 1990s; some were activated sporad-

ically; and others have never been activated at all, as demonstrated, for example, by those mechanisms referring to the peaceful settlement of disputes.

Several possible reasons may be identified that could explain this phenomenon: In the early 1990s, the then CSCE still had a limited institutional framework, and these mechanisms and procedures allowed for a structured dialogue on security and human dimension issues at a time when more permanent decision-making bodies, such as the Permanent Council, did not exist. Second, participating States may also have viewed these existing mechanisms and procedures as too cumbersome and complicated to use. Moreover, there is reason to believe that knowledge of these existing mechanisms and procedures is no longer as widespread as it was in the early 1990s.

OSCE Mechanisms and Procedures Revisited: The 2008 Activation of the “Bucharest Mechanism” and the Mechanism Regarding “Consultation and Co-operation as Regards Unusual Military Activities”

The two most recent activations of OSCE mechanisms and procedures occurred in 2008 in the context of the incident involving an unmanned aerial vehicle (UAV) shot down over Abkhazia, Georgia, on 20 April. The incident resulted first in the activation of the so-called “Bucharest Mechanism”, officially referred to as the Bucharest Ministerial Council Decision No. 3, “Fostering the Role of the OSCE as a Forum for Political Dialogue”. This mechanism provides for the FSC to make available its expert advice on issues of a politico-military nature at the request of the Permanent Council.

On 24 April, the Finnish Chairmanship tabled a draft decision on the Permanent Council’s request to the FSC for its expert advice with regard to the UAV incident, although no consensus was reached on what further steps should be taken. On 29 April, at the request of the Georgian OSCE Delegation, and on 30 April, at the request of the Permanent Council Chair, the FSC was again asked to provide its expert advice on the same incident. The result was that the UAV incident was discussed at various FSC meetings and joint meetings of the Permanent Council and the FSC.

It was in the later part of May that Georgia decided to also activate the Mechanism for Consultation and Co-operation as Regards Unusual Military Activities, contained in the 1999 Vienna Document. In a *note verbale* of 28 May 2008, Georgia requested information from the Russian Federation regarding the UAV incident, in accordance with paragraph 16.1. Chapter III of the 1999 Vienna Document. The Russian Federation sent a response to Georgia’s request on 30 May, within the time frame stipulated by the provisions of the mechanism. Furthermore, the Russian Federation requested clarification under said mechanism on two issues: 1) Georgia’s use of UAV flights; and 2) Georgia’s multiple violations of the Moscow Agreement of 1994, which had established the ceasefire and separation of forces in Abkhazia. Georgia sub-

mitted responses to the Russian Federation on both requests for clarification on 1 June. Three back-to-back Chairmanship-held meetings under paragraph 16.2.1.4 of Chapter III convened on 4 June, with a Chairmanship Report on the meetings issued to delegations on 9 June. Then on 11 June, three joint meetings of the FSC and the Permanent Council were held on the issues raised by Georgia and the Russian Federation.

While the confidential details of the discussions are contained in a restricted report by the Chairperson of the FSC to the Permanent Council Chair of 26 June 2008, what can be noted here is that a constructive and structured debate took place, with a majority of OSCE ambassadors taking the floor to support the findings of the UN's report of 26 May. During the course of discussions, the participating States also strongly encouraged the sides to continue with their dialogue and prevent the reoccurrence of such incidents. It was significant that the participating States commended the Russian Federation and Georgia for their use of OSCE mechanisms, allowing them to engage constructively and collectively in preventing further crisis escalation.

What the use of OSCE mechanisms in this particular incident also demonstrates is that not only the two sides, but also all of the participating States were able to engage in a structured and in-depth debate, allowing for specific recommendations to be made that would enable Georgia and the Russian Federation to move forward. Even though armed hostilities broke out in August 2008, this particular incident of crisis management shows that preventive action, as taken between April and June 2008, was indeed effective, at least at that time. In hindsight, more specific follow-up preventive measures would have been advisable, particularly with regard to increasing confidence-building measures or enhancing the number of military monitors – recommendations that were already contained in the food-for-thought paper of the 2007 Spanish Chairmanship.

Concluding Thoughts

Discussions on whether to make more use of existing OSCE mechanisms and procedures or to develop new mechanisms are likely to continue in the OSCE. One indication of this is that at the meetings known as the Corfu Process – a dialogue on European security anchored in the OSCE – issues of conflict resolution in the OSCE area are being discussed. During the second Corfu Process meeting, at least two delegations stressed the need to reinvigorate and perhaps even introduce a new mechanism that could provide for preventive action when crisis situations occur.

There are a number of ways in which the OSCE could move forward in the future on early warning, conflict prevention, and crisis management. One would be to enhance the OSCE's conflict prevention and crisis management abilities. This can be done by exploring ways of strengthening our existing

mechanisms, and, if there is a need, coming up with new mechanisms that can easily be used in response to a given security situation. More consideration should also be given to facilitating preventive diplomacy and mediation, underlining how important it is that mediation should not set in primarily after the outbreak of a crisis or an episode of violent conflict but that more concerted action needs to be taken when there are signs that a crisis is imminent. Other preventive action measures could include sending an observer mission in a preventive capacity and on a short-term basis to address security-related issues on the ground, while preventive diplomacy could address conflict-related issues at the political level.