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Foreword by the Chairman-in-Office

Over the past 34 years, the CSCE/OSCE has shown an unparalleled ability to adapt to Europe's ever-changing geopolitical environment. More than any other regional security organization, the OSCE has reflected the trends and evolution of European security. In 2009, once again, European security stands at a crossroads: The quest for security remains difficult, and the only constant in the international environment is the fluidity of the challenges we face. In this framework, I believe that the OSCE can and should live up to its full potential, serving as a pivot of stability for intra-state and inter-state relations, and a place where all of Europe's security actors can come together to work in concord.

With this in mind, the Greek Chairmanship pledged to promote tirelessly the concept of indivisible, cross-dimensional, and co-operative security throughout Europe – security rooted in respect for international law and the implementation in good faith of all the commitments undertaken within the OSCE framework.

Greece is convinced that there cannot be a lasting peace in wider Europe as long as we continue to view our relations through a zero-sum lens. Bearing this in mind, the first priority of our Chairmanship was to aim towards strengthening consensus among the 56 participating States, as it is through this process that dialogue and better understanding are generated. The Greek Chairmanship was committed from the outset to act as an honest broker in every case.

Greece assumed the Chairmanship of the OSCE following a year of serious crises in the OSCE area. These brought to light the real potential of our Organization, but also its limitations. The conflict in Georgia proved that the OSCE remains an indispensable actor for the provision of early warning and the rapid reaction to crises in our region. However, it also shattered long-standing assumptions about security in the OSCE area, and laid bare the serious issues that remain for the OSCE to address. This Organization is the natural forum for examining the present challenges and future prospects of our common, indivisible, co-operative, and cross-dimensional security. That is why the strategic themes of our Chairmanship in 2009 were to take forward a renewed dialogue on European security and to develop concrete action on the ground.

From the outset, we set core priorities across the three OSCE dimensions, while not shying away from the burning issues of the day. We pursued the OSCE's work in the field of non-military security by focusing on counter-terrorism, border management, policing, and combating organized crime and cyber-threats. The workshops and expert-level meetings we convened had a

wide array of themes, ranging from the role of the media in countering terrorism, to effective law-enforcement co-operation and threats to cyber-defence. These discussions eventually led to Ministerial Decisions aimed at promoting the international legal framework against terrorism, enhancing the OSCE's police-related work, promoting travel document security, and addressing transnational threats. In the second dimension, and with the impact of the global financial and economic crisis being felt across the OSCE area, Greece stood ready to mobilize action wherever the OSCE has the mandate and the tools to act. From the outset, it called on all members of the OSCE family to monitor carefully the fallout of the crisis as it unfolded over the year, in order to address new forms of instability arising in our societies. The dangerous confluence of the economic crisis with rising energy security problems was a prime concern, but the Ministerial Decisions on energy security and migration management are proof of the potential that exists to act in concert. Last but not least, throughout 2009, the Greek Chairmanship sought to focus attention on the three areas of the human dimension, namely human rights and fundamental freedoms, the rule of law and democratic institutions, and tolerance and non-discrimination. Combating hate crimes was a priority topic, culminating in the adoption by the Athens Ministerial Council of several relevant decisions based on the Chair's proposals. Greece appointed three new Personal Representatives of the Chairperson-in-Office on tolerance and non-discrimination. The Chairmanship also gave particular attention to election-related issues, including election observation, initially addressing issues related to the effective co-operation of the OSCE Parliamentary Assembly and the OSCE/ODIHR in the field, which indeed improved drastically during the year.

The Greek Chairmanship has sought tirelessly to embed stability and security in the Caucasus region, especially in Georgia. Our efforts followed several strands:

First, Greece committed itself to carry forward the efforts of the previous Finnish Chairmanship to build a consensus on the continuation of the OSCE presence in Georgia. The adoption of the Permanent Council Decision in February on the prolongation of the mandate of the OSCE's military monitors until 30 June led to a new round of intensive consultations and gave hope that further progress was within reach. Regrettably, despite our best efforts, no consensus could be achieved. As a result, one of the largest OSCE field operations in the region closed its doors this year – this, despite the clear need for an OSCE presence to contribute to security and stability in the region, a need that has been recognized by many participating States. Nevertheless, the Greek Chairmanship did not give up and stood ready to continue to facilitate consultations on how to reintroduce a comprehensive OSCE presence in Georgia. I am a strong believer that the OSCE's experience, its diverse toolbox, its inclusiveness, and its comprehensive approach to security

are unparalleled assets for the international community. For those most directly affected by the conflict, these assets are irreplaceable.

A second strand of activity was the work of building long-term stability. The OSCE has acted as a co-chair to the Geneva Discussions on Georgia alongside the UN and the EU, and talks have been held regularly. The discussions in Geneva have led to the establishment of Incident Response and Prevention Mechanisms on the ground. These have been positive steps, and the common front presented in Geneva by the UN, the EU, and the OSCE has been important. Nonetheless, all the hard work remains ahead.

The Greek Chairmanship also sought to rebuild elements of confidence between communities on the ground by giving priority to solving urgent humanitarian issues. The aim here was to improve the living conditions of all the affected populations irrespective of ethnic origin. In this respect, the Greek Chairmanship contributed to the restoration of the gas supply to Tskhinvali and worked to clarify issues related to the supply of water and electricity in and around South Ossetia, as well as the fate of missing persons and detainees. We spared no effort in continuing activities on the ground and enhancing comprehensive security, mainly through the work of the Special Representative of the Chairperson-in-Office, Ambassador Charalambos Christopoulos, the OSCE institutions, and the relevant thematic units in the Secretariat.

One notable success of the Athens Ministerial Council was the fostering of a consensus on a decision and an ambitious wide-reaching declaration charting the way ahead for the “Corfu Process”, the OSCE-anchored dialogue on the future of European security.

The adoption of these documents marked a major step forward for the Organization, and provides a roadmap for the renewed, inclusive, and meaningful dialogue on European security that was launched in June during informal ministerial discussions on the island of Corfu. The Corfu Informal Ministerial Meeting, in turn, built on a process that started during the Helsinki Ministerial Council and continued in Vienna throughout 2009, via the OSCE Parliamentary Assembly meeting, the Annual Security Review Conference, and regular meetings at ambassadorial level during the autumn.

The ambitions of the process are spelled out in the Ministerial Declaration on the OSCE Corfu Process:

The vision of a free, democratic and more integrated OSCE area, from Vancouver to Vladivostok, free of dividing lines and zones with different levels of security remains a common goal, which we are determined to reach [...] Our highest priority remains to re-establish our trust and

confidence, as well as to recapture the sense of common purpose that brought together our predecessors in Helsinki almost 35 years ago.¹

The Ministerial Decision on the Corfu Process provides a roadmap for the way ahead, specifying eight areas the dialogue should focus on: OSCE norms, principles and commitments; conflict resolution; arms control and confidence- and security-building regimes; transnational and multidimensional threats and challenges; common economic and environmental challenges; human rights and fundamental freedoms, as well as democracy and the rule of law; enhancing the OSCE's effectiveness; and interaction with other organizations and institutions.

The Corfu Process stresses the importance of comprehensive and indivisible security, as well as the full implementation of the commitments that are its embodiment in practice. It underscores both the continued relevance of existing security institutions and the need to maximize their ability to deal with modern challenges.

Its objectives are threefold: first, to maintain and improve existing structures of European security; second, to enhance co-operative security across the OSCE area through concrete action; and finally, to achieve the maximum implementation of existing commitments, including on conflict resolution and arms control.

The OSCE is the natural "anchor" for this dialogue – thanks to its inclusive membership, its comprehensive concept of security, and its rich experience as a negotiating platform and an actor in the field. The Political Declaration adopted in Athens is a big step on the way. This process, however, has only just started, and I am fully aware that it will be lengthy and demanding. But I know it to be in the best interest of all to conduct this dialogue through the Corfu Process. Open dialogue and concrete action are the two pillars for building a common and indivisible pan-European security space in the 21st century.

¹ Organization for Security and Co-operation in Europe, Ministerial Council, Athens 2009, *Ministerial Declaration on the OSCE Corfu Process*, MC.DOC/1/09, 2 December 2009, at: http://www.osce.org/documents/cio/2009/12/41848_en.pdf.

Preface

The chapter on “The OSCE and European Security” in the OSCE Yearbook 2008 provided a comprehensive overview of the state of European security¹ and a precise description of the current position of the OSCE. Not least against the backdrop of the war in Georgia, the conclusions of these in-depth analyses provided little grounds for hope of a rapid and lasting easing of tensions between Russia and the West and the durable overcoming of the crisis of the OSCE. “Business as usual or revitalization of the OSCE?” This was the question that P. Terrence Hopmann posed with regard to the future of the Organization.² The year 2008, Hopmann argued, was “a critical juncture” for the Organization. In the next few years, he went on, it would either further recede or “in the face of current challenges [...] revitalize its role as a central actor in European security”.³ By contrast, the OSCE Yearbook 2009 now presents a number of cautiously optimistic versions of the future.

The decisive break already occurred against the dark background of 2008: At a conference in Evian, France, in October of that year, Russia’s President Dmitry Medvedev returned to the proposal that he had first made in Berlin in June: The conclusion of a legally binding Treaty on European Security, whose negotiation would commence with a pan-European summit. While still at Evian, Nicolas Sarkozy, then President of the European Council, took up Medvedev’s plan and proposed that the OSCE should be the framework for dialogue. On the initiative of the Greek OSCE Chairmanship, the foreign ministers of the OSCE participating States finally met on 28 June 2009 at Corfu for initial informal discussions – and the “Corfu Process” was born. The ministers agreed to begin a structured and focused dialogue on the future of European security in the OSCE context, and with the involvement of other security institutions. The Greek Chairmanship proposed 20 “guiding themes” for discussion at the informal, ambassadorial-level “Corfu Process meetings” that began in Vienna on 8 September 2009.⁴ By so doing, the Chairmanship ensured that the Corfu Process would cover all three OSCE dimensions, and while an emphasis was placed on politico-military topics, this did not occur at the expense of the human dimension. President Med-

1 See Michael Merlingen/Manuel Mireanu/Elena B. Stavrevska, The Current State of European Security, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2008*, Baden-Baden 2009, pp. 91-117.

2 P. Terrence Hopmann, The Future Impact of the OSCE: Business as Usual or Revitalization? In: *ibid.*, pp. 75-90.

3 *Ibid.*, p. 1.

4 Cf. Corfu Process meetings: Guiding themes, in: *OSCE Magazine* October-November 2009, p. 5.

vedev's plan thus turned out to give an important boost to the OSCE – not least thanks to the initiative of the EU.

The Corfu Process is at the heart of this year's OSCE Yearbook. Six leading experts on European security policy place the proposal of a binding Treaty on European Security at the centre of their considerations: Adam Daniel Rotfeld inquires into the necessity of a new European security architecture. Andrei Zagorski subjects the Russian President's plans to detailed scrutiny, as do Pál Dunay and Graeme P. Herd. Finally, Egon Bahr and Reinhard Mutz discuss the future of détente.

Another momentous event lies just ahead: In 2010, Kazakhstan becomes the first successor state of the former Soviet Union, the first CIS member state, and the first Central Asian country to assume the Chairmanship of the OSCE. When it first announced its candidacy in 2003, Kazakhstan had already set about to become a key actor in the triangle defined by European, Russian, and Chinese power. Kazakhstan was seen as a stable and religiously tolerant multiethnic state with no major domestic conflicts. Nonetheless, it was also clear that the country had considerable deficits in the areas of democratic development and human rights. In 2004, moreover, Kazakhstan aligned itself with Russia's fundamental criticisms of the OSCE. Its application thus initially divided the OSCE participating States into a larger group of supporters and a smaller one of opponents to its candidacy.⁵ Several participating States, among them the USA, feared that a Kazakhstani Chairmanship could endanger the OSCE *acquis* in the human dimension and the independence of relevant institutions, ODIHR in particular. By contrast, the bulk of the OSCE States, including Germany, saw in Kazakhstan's candidacy the prospect of positive effects not only on the domestic political development of Kazakhstan itself, but also on the development of the entire region and its co-operation with Europe. Initially postponed at the Brussels Ministerial Council Meeting in 2006, the decision on the 2010 Chairmanship was finally taken at the Madrid Ministerial Council Meeting in November 2007. The fact that it ultimately went the way of Kazakhstan was above all the result of the promise previously made by the then Kazakhstani Minister of Foreign Affairs, Marat Tazhin, that ODIHR's independence would be preserved and protected. In the current volume, Bulat Sultanov, Director of the Kazakh Institute for Strategic Studies (KazISS), describes Kazakhstan's preparations for the OSCE Chairmanship. In the same chapter, Janne Taalas and Kari Möttölä look back on the achievements of the Finnish Chairmanship in 2008.

In the chapter on the OSCE participating States, Dennis Sandole from George Mason University explicates and evaluates US foreign policy in the post-Bush era. Lithuania's ambassador to the OSCE, Renatus Norkus, looks at the role of the Organization from the point of view of his country, which will assume the Chairmanship in 2011. Astrid Sahm, the German Director of

5 Cf. Margit Hellwig-Bötte, Kazakhstan's OSCE Chairmanship – The Road to Europe? in: *OSCE Yearbook 2008*, cited above (Note 1), pp. 175-186, here: pp. 177-178.

the Johannes Rau Minsk International Education Center, considers the potential for future co-operation between Belarus and European organizations, and Elena Kropatcheva analyses the domestic political situation in the Ukraine, five years after the “Orange Revolution”.

In the section on the work of the OSCE in individual countries, the Head of the OSCE Presence in Albania, Robert Bosch, introduces an OSCE project to protect women from domestic violence. Ulrich Heider illuminates military aspects of the work of the OSCE Mission to Bosnia and Herzegovina, and Marcin Czapliński from the OSCE’s Conflict Prevention Centre (CPC) relates the evolving tasks of the OSCE Mission in Kosovo. Retired General Bernard Aussadat discusses the prospects for settlement of the conflict over Transdnistria, while Tim Potier, an expert in international law, concerns himself with the conflict in Nagorno-Karabakh. Alexandre Keltchewsky gives an appreciation of ten years of the OSCE Centre in Astana and Alice Ackermann, also from the CPC, describes OSCE mechanisms for early warning, conflict prevention, and crisis management.

The restructured chapter on “Comprehensive Security: The Three Dimensions and Cross-Dimensional Challenges” pays heed to the fact that, in the face of new threats and risks, the boundaries between the three dimensions of the OSCE’s activity have increasingly become blurred and many challenges can only be managed in a manner that is cross-dimensional. The chapter opens with a contribution by Frank Evers, who focuses on the highly controversial topic of election observation. Aaron Rhodes, former director of the International Helsinki Federation for Human Rights (IHF), pleads for better protection of human rights defenders in the participating States and Hans-Joachim Heintze, an expert in international law at Ruhr University in Bochum, discusses whether *de facto* regimes are bound by human rights norms. Lorenz Barth from Germany’s Permanent Mission to the OSCE analyses the Ministerial Decision on Strengthening the Rule of Law. Herbert Salber, Director of the CPC, and Alice Ackermann jointly present the OSCE Border Security and Management Concept. Stephan Hensell, meanwhile, concerns himself with co-operation and competition between international actors in the field of police reform in the Balkans.

In the chapter on organizational aspects of the OSCE, its institutions and structures, Oleksandr Pavlyuk takes a look at the ten-year history of the OSCE Platform for Co-operative Security. Anna Ekstedt considers co-operation between the OSCE and the Council of the Baltic Sea States (CBSS) in combating trafficking in human beings.

Our Foreword this year comes from the pen of the Prime Minister and Minister for Foreign Affairs of the Hellenic Republic, George A. Papandreou. As always, the editors and the editorial board would like to express their thanks to all the authors who have contributed with their dedication, expertise, and experience to the OSCE Yearbook 2009.

In January 2009, Prof. Victor-Yves Ghebali, a leading researcher in the field of international organizations and a globally acknowledged OSCE specialist, died. As a long-term international co-editor of the OSCE Yearbook, he supported the editorial board and editors in countless ways over the years; we are also grateful to him for many clear-sighted and often critical contributions to the OSCE Yearbook. In 2001, for instance, he called for honest and open-minded efforts in “Coping with the Russian Malaise”. He was equally sceptical and constructive in his engagement with “The Reform Process of the OSCE” (2002). And in 2005, he took up the hot potato of “Election and Election Monitoring Standards at the OSCE”. These are just a few examples of his outstanding body of work. In this volume, Wolfgang Zellner pays tribute not only to this *oeuvre*, but also to Victor-Yves Ghebali the man. In their contribution, Daniel Warner, Marianne von Grünigen, Andrei Zagorski, and Vesna Marinkovic review his life and work.

The Russian initiative to revitalize the pan-European security dialogue has also led to the resuscitation of the OSCE. Merely the fact that serious dialogue is once again taking place is a bonus. The OSCE is currently the only forum for multilateral security dialogue in Europe in which Russia participates as an equal. Whether the process launched by President Medvedev will lead to Moscow’s desired goal of a legally binding Treaty on European Security remains to be seen. But the new dynamism that the European security dialogue has gained under the catchy label of the “Corfu Process” can nonetheless be evaluated positively. Another significant development is the revival of arms control, a key component of co-operative European security, that can also be expected to occur within the framework of the new security dialogue. The Corfu Process therefore represents, in particular, an upgrading of the OSCE’s politico-military dimension, which is one of Russia’s central concerns. The more strongly the governments of the participating States identify, in the course of the Corfu Process, with the OSCE as a forum for European and transatlantic security dialogue, the greater will be the scope for the Organization’s specialized structures and institutions. At this point in time, the resumption of security dialogue in the OSCE context is definitely more important than structural reform.

Victor-Yves Ghebali – An Appreciation

On 6 January 2009, Victor-Yves Ghebali passed away. In him, we have lost by far the most brilliant, knowledgeable, and all-embracing expert on CSCE and OSCE affairs. “Professor Ghebali was Mr. OSCE. His unparalleled memory, understanding and analysis of the Organization’s evolution, mechanisms, institutions and decisions made him a walking encyclopaedia of knowledge that was tapped by officials and researchers alike”, as Walter Kemp, a longstanding OSCE staff member, put it.

In the 1970s, Victor-Yves Ghebali started teaching at the Graduate Institute of International and Development Studies (HEID) in Geneva. In 1990, he was awarded the Chair in International Organizations at HEID. To understand his work, it is necessary to observe that, with the exception of a few brief periods, the CSCE/OSCE has always been massively under-researched. Not, however, by Victor-Yves Ghebali. “He was one of the few serious researchers who set out to study and observe the OSCE and record its evolution”, as the first Secretary General of the CSCE/OSCE, Wilhelm Höynck, noted. The results are well known: A list of Victor-Yves’ publications in 2007’s *Conflicts, security and cooperation, Liber amicorum Victor-Yves Ghebali*, edited by Vincent Chetail, includes 244 written between 1969 and 2007, among them a number of books that have retained their value for decades, particularly *La diplomatie de la détente: La CSCE d’Helsinki à Vienne (1973-1989)*, and *L’OSCE dans l’Europe post-communiste, 1990-1996. Vers une identité paneuropéenne de sécurité*.

His pre-eminence as an analyst of the CSCE/OSCE – he wrote (far) more on this issue than any other researcher – does not at all mean that the OSCE was Victor-Yves’ only object of interest. As his list of publications shows, he also worked intensively on international organizations in general, from the UN system to the International Labour Organization.

Victor-Yves was by no means an ivory-tower type of researcher. He believed in the continuing relevance of the OSCE as a pan-European platform for security co-operation, provided that the Organization is able to defend its normative *acquis* and adapt to changing political circumstances. And he made Geneva into one of the very few centres of academic and political debate on OSCE issues. During the CSCE period, the “neutral and non-aligned” countries played a highly important role, and Switzerland was perhaps the most relevant of them. The Swiss government also remained interested in and committed to the CSCE/OSCE after 1990. Victor-Yves Ghebali, who acted as an adviser to the Swiss government during the 1996 Swiss OSCE Chairmanship, took advantage of this interest to establish the PSIO (Programme for the Study of International Organizations) OSCE Cluster of Competence,

later called the CIG (Centre for International Governance) Focus on the OSCE, a conference held every year in September that brought together prominent OSCE practitioners and researchers. This unique mix of participants resulted in extremely stimulating discussions, not least because Victor-Yves almost always used the opening meeting to provide a thought-provoking (and often provocative) contribution.

For the last ten years, almost since the foundation of the Centre for OSCE Research, there has been a lot of good and close co-operation between Victor-Yves and CORE. Victor-Yves was a very active co-editor of the OSCE Yearbook to which he contributed a number of articles. I myself have participated in each and every one of the Geneva OSCE conferences since the early 2000s and have contributed to the publications that came out of these conferences. And last, but by no means least, Victor-Yves Ghebali participated in the task forces that elaborated the two CORE reports on the future of the OSCE – *Managing Change in Europe* (2005) and *Identifying the Cutting Edge* (2007) – commissioned by the Finnish Foreign Ministry in preparation for Finland's 2008 OSCE Chairmanship.

Victor-Yves was a great scholar, a colleague and partner, but above all, and more and more, he was a friend. In the words of the Secretary General of the OSCE, Ambassador Marc Perrin de Brichambaut: "The OSCE has lost a great friend, one whose eyes were always wide open and always among the most perceptive. We shall all be the poorer for no longer being able to rely on his insights." We will not forget how much we have profited from him – in every respect – and will continue to profit from his wealth of insightful writings, in which he shared his unique knowledge so graciously with everyone.

I.

States of Affairs – Affairs of State

The OSCE and European Security:
Focus on the Corfu Process

Does Europe Need a New Security Architecture?

Introduction

The question of whether Europe and the world need a new transatlantic or global “architecture” of security is a recurring item on the security agenda. The fundamental internal transformation of many Central and Eastern European states that shed Soviet domination after the break-up of the Soviet Union, the end of the Cold War, and the bipolar world offers a point of departure for reflection and the search for a new, holistic-comprehensive arrangement of the international system. This matter has been the subject of many serious analyses and studies.¹

On 8 October 2008, the President of the Russian Federation, Dmitry Medvedev, presented an initiative at the World Policy Conference in Evian, organized by the French Institute of International Relations. After analysing and assessing the development of the global political situation since the collapse of the bipolar system, Medvedev proposed a new comprehensive European Security Treaty. The aim of the Treaty, declared the Russian president, would be to introduce “uniform rules of the game” across the transatlantic area.² The agreement would be legally binding and would provide security guarantees for all its signatories. A draft of the European Security Treaty was presented on 29 November 2009 and addressed to all the NATO, EU, and OSCE member states. Russia was thus proposing a new security architecture. It was by no means the first Russian initiative to this end. Indeed, Russia has a long record of promoting comprehensive security concepts.

Adam Czartoryski's 1803 Memorandum

The first Russian initiative that aimed at achieving a comprehensive settlement of security issues and the establishment of a European order guaranteed by the great powers was proposed over two hundred years ago. The author of

1 See, for example: Hans-Joachim Giessmann/Roman Kuzniar/Zdzisław Lachowski (eds), *International Security in a Time of Change: Threats – Concepts – Institutions*, Baden-Baden 2004, a collection of essays that includes contributions by prominent researchers of security issues from Europe, the United States, and Russia. See also an interesting report published under the auspices of the European Institute of the Russian Academy of Sciences: Vladimir F. Petrovsky, *The Triad of Strategic Security of the Global Community*, Moscow, December 2007.

2 President of Russia Dmitry Medvedev, *Speech at World Policy Conference*, Evian, 8 October 2008, at: http://www.kremlin.ru/eng/speeches/2008/10/08/2159_type82912type82914_207457.shtml. This initiative was presented for the first time by Dmitry Medvedev on 5 June 2008.

the concept, Duke Adam Jerzy Czartoryski, was a Polish aristocrat whom the Tsar Alexander I of Russia had put in charge of a newly established Ministry of Foreign Affairs. Initially, the young Russian monarch did not intend to address European affairs. As Adam Czartoryski wrote in his memoirs: "The Emperor spoke of Catherine's wars and of the despotic folly of Paul with the same disgust."³ Yet, as the foreign minister of the Russian Empire, Czartoryski believed that Russia's isolation was causing it to lose influence in Europe and suffer a humiliation that public opinion could never stand.

Russia, wrote Czartoryski in an 1803 memorandum for the Tsar,⁴ is not by nature an aggressive power. Her territory is too vast as it is. The future of Russia, he argued, should rely on the development and exploitation of her own lands rather than on new conquests. Yet Russia must play a role befitting her potential: Her policy must be "magnanimous, just and sober, worthy of her position and her power".⁵ Her future should be shaped by the process of taming her giant territory rather than by further conquests. Yet isolation would be a proof of her weakness – hence Czartoryski's conclusion that Russia's geographic situation and its might forced it, as it were, to conduct an active foreign policy. In his context, he suggested concrete steps towards liberating the Slavonic nations in the Balkan Peninsula, for whom Russia should act as protector.

Czartoryski saw Britain as a unique and invaluable trading partner and potential ally, for, while intent on establishing security in Europe, the UK was also the last bastion of liberalism, which had been effectively banished from continental Europe. This is how Mikhail Heller summarized the gist of the Czartoryski concept: "If Russia and England come to terms, their policy will be law for the entire continent."⁶ By this logic, an alliance with Britain was to be the foundation of Russia's foreign policy programme. According to Czartoryski's memorandum, there was no conflict of interests between Russia and France. Czartoryski believed that, to challenge the French revolutionary ideals, liberalism needed to be promoted and French public opinion won over against the tyranny of Napoleon.

Predictably, the cause of Poland figured prominently in the Czartoryski concept. Following the partition of Poland, Austria and Prussia had become Russia's neighbours. The author of the memorandum warned the Tsar against the dangers that this proximity engendered – for instance, a potential attack on Russia by German states could not be ruled out. For this reason, he argued, the rebirth of a united Poland would ensure Russia's security. The memorandum contained concrete proposals for Russia's policy towards Tur-

3 Mikhail Heller, *Istoriya Rossiyskoi Imperii* [History of the Russian Empire], Moscow 1997, p. 253 (author's translation).

4 This document, never published in Russia, was discovered by Marian Kukiel in the 1930s in the archives of the Czartoryski Museum in Kraków and presented in his work *Czartoryski and European Unity, 1770-1861*, Princeton 1955.

5 Ibid., p. 32.

6 Heller, cited above (Note 3), p. 257.

key (Czartoryski held that the Ottoman empire was in a terminal stage of decline), a recommendation that an independent Greece be created, plans for the unification of the Balkan Slavs and of Italy and, last but not least, a proposal for the establishment of a confederation (following the Swiss pattern) or federation (modelled upon the United States) of western German states independent of Austria and Prussia.

The plan met with the Emperor's enthusiastic support. Adam Czartoryski was appointed Russian minister of foreign affairs. Acting on the memorandum, Alexander I signed a set of "secret instructions" and handed them, in September 1804, to Nikolay Novosiltsov, who was dispatched on a special mission to London. The essence of Novosiltsov's mission was this: Two great powers, Russia and England, were to decide the future of the European continent, drawing the borders and determining the institutions and political systems of those states that would find themselves in a Russian-British condominium rather than under Bonaparte's rule. The talks Novosiltsov conducted in London dealt with two issues: on the one hand, the formation of a special body to oversee the protection and preservation of peace in Europe and, on the other, the drawing up of new borders for existing states and the creation of new states following Napoleon's defeat.

In other words, as Polish historian Marian Kukiel wrote, "it would be the common task of Russia and Britain to ensure [Europe's] stability. [...] [They] should make proper use of their joint power for establishing equilibrium and imposing real and durable peace."⁷

As we know, history took a different course. The logical, bold, and innovative thinking of the Czartoryski plan did not impact upon European reality in any meaningful way, and neither did it determine Russia's place and role in Europe and in the world. Shortly thereafter, war broke out between Alexander I and Napoleon. The great Russian victory in the battle of Borodino and Napoleon's defeat failed to secure Russian hegemony in Europe. Russia's attempt to achieve a position that would enable it to hold sway over the fate of Europe fell flat. Nearly two hundred years later, Alexander Solzhenitsyn asked, in his assessment of Alexander I: "Why did we meddle in European affairs?"⁸

A New "Triple Concert"

A different take on this issue was presented by the Minister of Foreign Affairs of the Russian Federation, Sergey Lavrov, who, in his lecture inaugurating the 2007-2008 academic year at the Moscow State Institute of International Relations (MGIMO), made the following observations: "[...] the

7 Kukiel, cited above (Note 4), pp. 34-35.

8 Alexander Solzhenitsyn, "Russkiy vopros" k kontsu XX v. [The "Russian Question" at the End of the 20th Century], in: *Novyj mir* 7/1994, p. 146.

conditions of freedom dictate the necessity of collective leadership by the key states of the world. This may be called a ‘concert of the powers for the 21st century.’ [...] It wouldn’t hurt the part of the world customarily known as the Euro-Atlantic region to have a triple understanding – between the US, Russia and the European Union. [...] I agree that such a ‘troika’ could ‘steer the global boat into untroubled waters.’ Within this ‘triangle’ there are things on which Europe is closer to the US, but on a number of strategic issues it has more similarity with Russia. Take the theme of use of force and other forms of coercion, as also the attitude to international law. Despite differences in the ‘troika’, we must seek to arrive at the maximally possible common denominator. Anyway, if some people think that it’s impossible to do without a concept of containment, then this kind of ‘triple concert’ is the best, and most importantly – a non-confrontational and non-cost form of mutual containment. Perhaps it is time to think of a new definition of Atlanticism that does not exclude Russia.”⁹ This concept was later developed by Vladimir Putin and elaborated by the Russian President, Dmitry Medvedev, on 5 June 2008 and at the above mentioned Evian World Policy Conference in October 2008.

The political philosophy behind Russian policy is based on a new interpretation of the old concept of the balance of power, which, according to the Russian foreign minister, has not changed: “Russia has now borne a considerable share of the burden of equilibrium maintenance in European and world politics for 300 years.”¹⁰ According to Lavrov, the element of continuity in Russia’s foreign policy has greater significance than the fundamental changes that have taken place on the European and world stages. The formula of the balance of power in international politics is based, according to Lavrov, on “peaceful coexistence, reliance upon international law, collective security, and the politico-diplomatic settlement of conflicts”.¹¹ In this respect, the statements of President Vladimir Putin were more overt. Their guiding motive was not the search for a balance of interests as much as recognition of the new Russia as a global power – with a position in the world equal to that of the United States. In other words, it is a policy aimed at Russia’s recovery – in a radically changed world – of the rank once occupied by the Soviet Union in the bipolar system. In reaching these aims, the decisive factors that have influenced Russia’s changing approach to global issues have not been world developments so much as the changing situation in Russia itself.

Two factors are of key importance in Russia’s new approach to resolving current and future problems in the world and in Europe: its possession, along with the United States, of one of the world’s largest arsenals of nuclear

9 Speech given by Russia’s foreign minister, Sergey V. Lavrov, at the inauguration of the new academic year at the Moscow State Institute of International Relations (MGIMO), Moscow, 3 September 2007. For the full text of the speech, see: http://www.sras.org/sergey_lavrov_speaks_at_mgimo.

10 Ibid.

11 Ibid.

weapons and delivery systems¹² and its enormous energy resources (gas and oil), for which world demand is rising. These strategic resources are not renewable. Increased demand, along with increasingly difficult access to them, has caused their prices to skyrocket (fivefold in five years, from 2003 to 2008). Access to them is also becoming an important lever in the security policy of states, as well as an instrument of pressure and blackmail.

The European Security Treaty proposed by President Medvedev on 29 November 2009 is not a new idea. It recalls to some extent Gustav Stresemann's way of thinking, as reflected in the Locarno Treaties of 1925. Stresemann, the Foreign Minister of the Weimar Republic, aimed to re-establish the position of Germany after defeat in the First World War. To some extent, this is the main motive behind Russia's recent initiative: to institutionalize the global power position of Russia after defeat in the Cold War.

A Search for a New Concert of Powers

The European security concept put forth by Vladimir Putin, Dmitry Medvedev, and Sergey Lavrov rests on an assumption that a new security architecture will be based on decisions taken by the great powers. In its essence, this concept draws upon the 19th century formula of a European order, as established and upheld by the Holy Alliance – a pact among the monarchies that had defeated Napoleon. That concert of European powers stabilized the situation on the continent for several generations. The outcome of World

12 In 2007, the nuclear states had a total of over 26,000 nuclear warheads, of which the United States had about 10,000 (including 5,045 issued to the army and kept in a state of alert), and Russia about 15,000 (including about 5,700 kept on alert, and 9,300 kept in warehouses and designated for destruction). See: *SIPRI Yearbook 2007: Armaments, Disarmament and International Security*, Oxford 2007, Appendix 12A, Table 12A.1. At the beginning of 2008, eight nuclear weapon states possessed almost 10,200 operational nuclear weapons. Of the total number of deployed warheads, Russia has 5,189 and the USA 4,075. See: *SIPRI Yearbook 2008: Armaments, Disarmament and International Security*, Oxford 2008, Chapter 8. As of January 2009, the USA maintained an estimated arsenal of ca. 9,400 warheads of which ca. 5,200 are in Department of Defense stockpiles (ca. 2,700 operational and ca. 2,500 in reserve) and 4,200 warheads are scheduled to be dismantled by 2022. The total Russian inventory contains ca. 13,000 warheads, of which 8,166 are in reserve or awaiting dismantlement. See: *SIPRI Yearbook 2009: Armaments, Disarmament and International Security*, Oxford 2009, Chapter 8, p. 346. The United States and Russia undertook to reduce their strategic nuclear potential to the level of 1,700-2,200 warheads by 31 December 2012. The destruction of the Russian nuclear potential (and of other weapons of mass destruction) is financed from a special fund under the Global Threat Reduction Initiative to the amount of 20 billion US dollars, ten billion of which were provided by the United States, the remaining ten billion by other Western states. According to the Evans-Kawaguchi Report of the International Commission on Nuclear Non-Proliferation and Disarmament (ICNND) of November 2009 there are at least 23,000 nuclear warheads still in existence. The US and Russia have over 22,000, and France, the UK, China, India, Pakistan, and Israel around 1,000 between them. Nearly half of all warheads are still operationally deployed, and over 2,000 of the US and Russian weapons remain on dangerously high alert, ready to be launched immediately. See: Gareth Evans/Yoriko Kawaguchi, *Eliminating Nuclear Threats. A Practical Agenda for Global Policy Makers*, ICNND Report. November 2009.

War I was to cause a fundamental shock to the then European system. Three great monarchies, Austria-Hungary, the German Empire, and Tsarist Russia, collapsed, as did the vast Ottoman Empire. The victorious powers – the United States, France, and the United Kingdom – dictated the terms that shaped a new system. This was reflected, in politico-legal terms, in the Treaty of Versailles, an integral part of which was the Covenant of the League of Nations, considered as the institutional form of a new collective security system.

In practice, the system did not pass muster for a number of reasons – not so much because of the institutional weaknesses of the League of Nations (which were many), but because of the absence of the United States (who did not ratify the Treaty) and the effective repudiation of the Versailles Treaty by Germany and Russia. In both these states, the form of governance had changed fundamentally: The German Empire had been succeeded by the Weimar Republic, and the Russian Empire had come under the rule of the Bolsheviks and was renamed the Union of Soviet Socialist Republics (USSR) in 1922. Yet in the external policies of both powers, continuity and efforts to regain former greatness dominated. The Weimar Republic openly defied the Versailles system. This first became manifest in its attempts to establish special relations with Russia (Russian-German Treaty of Rapallo, 1922), then in the Locarno Treaties of 1925, which, while ensuring the security of Germany's western neighbours, left it free to resume the policy of eastward expansion. On Hitler's coming to power, the Third Reich no longer observed the constraints imposed on Germany by the Versailles Treaty. The Saarland came back under German rule as the result of a plebiscite, and the remilitarization of the Rhineland followed in 1936. Then came the *Anschluss* of Austria (March 1938), the severing of the Sudetenland from Czechoslovakia under the Munich Treaty (September 1938), the establishment of the Protectorate of Bohemia and Moravia and the dismantling of the Czechoslovak state (March 1939) and, finally, the secret protocols of the Molotov-Ribbentrop Pact (August 1939) and the invasion of Poland (1 September 1939), two weeks before the onslaught and seizure by the Red Army of the eastern territories of the Second Republic of Poland. The aggressors, Hitler and Stalin, had agreed to terminate the existence of an independent Poland, which the Soviet signatory of the treaty, Vyacheslav Molotov, took the opportunity of calling "that bastard of the Versailles Treaty".

Litvinov's Collective Security Concept

Hitler's Germany openly repudiated the Versailles Treaty, proclaimed a revision-of-borders policy and heralded each new act of aggression in the east as the final step towards "lasting peace and security". Hitler's officially declared aim was to establish a "new order" in Europe. Stalin's Soviet Union,

for its part, officially flaunted its peaceful intentions and promoted the need to build a collective security system in Europe. The chief architect of a comprehensive concept of European collective security in the 1930s was Maxim Litvinov, the then Soviet Commissar for Foreign Affairs. Addressing the 16th session of the League of Nations, which was devoted to the attack on Abyssinia by Mussolini's Italy, Litvinov outlined a concept of the indivisibility of peace and the strengthening of collective security. Speaking in Geneva on 1 July 1936, Litvinov argued as follows: "If we are yet unable to rise to such heights of international solidarity, we should make it our concern to have all continents and, for a start, at least all Europe covered with a system of regional pacts, on the strength of which groups of States would undertake to protect particular sectors from aggression; and the performance of these regional obligations should be deemed equivalent to the performance of the covenanted obligations and should enjoy the full support of all members of the League of Nations."¹³

The substance of Litvinov's idea was that the principle of collective security should be put into practice and that, far from being an abstract notion, this principle was a practical means of ensuring security for all nations, i.e. of recognizing the indivisibility of peace. These words of Litvinov's are worth recalling because deliberations on a new architecture of security inevitably invite a question: Do proclaimed purposes reflect true intentions, or are they merely rhetoric or propaganda?

Words and Deeds

In order to illustrate what I have in mind, I would like to recount a personal experience. It happened in Stockholm on the morning of 14 December 1992, just as Sweden's then Minister of Foreign Affairs, Margaretha af Ugglas, was opening a meeting of the Council of Foreign Ministers of the Conference on Security and Co-operation in Europe (CSCE). My seat was near that of Polish Minister of Foreign Affairs Krzysztof Skubiszewski. I had been invited to the Council meeting to submit a preliminary report on a mission entrusted to me, namely to look for a political solution to the conflict triggered by the secession of the self-proclaimed Transnistrian Moldovan Republic from the Republic of Moldova. Suddenly, Andrei Kozyrev, then the Minister of Foreign Affairs of the Russian Federation, raised a point of order and requested to speak on matters not on the agenda. He explained that he had received instructions to make a brief statement before the meeting proceeded with its business. At the time, as we know, Russian President Boris Yeltsin

13 Maxim M. Litvinov, Speech on the Indivisibility of Peace and the Strengthening of Collective Security Delivered at the XVI Plenum of the League of Nations, 1 July 1936, in: Maxim M. Litvinov, *Against Aggression: Speeches*, New York 1939, pp. 35-45, here: p. 44.

and Kozyrev, his Minister of Foreign Affairs, were declaring their unequivocal and unreserved commitment to the policy of rapprochement and close cooperation with the community of democratic Western states.

I was sitting less than a metre away from Minister Kozyrev, who reached into his coat pocket, smoothed a crumpled sheet of paper, and read out the following statement:

I am obliged to introduce corrections in the general direction of Russian foreign policy. I wish to inform you briefly about these to the extent that they concern CSCE problems.

First: While fully maintaining the policy of entry into Europe, we clearly recognize that our traditions in many respects, if not fundamentally, lie in Asia, and this sets limits to our rapprochement with Western Europe.

We see that, despite a certain degree of evolution, the strategies of NATO and the WEU, which are drawing up plans to strengthen their military presence in the Baltic and other regions of the territory of the former Soviet Union and to interfere in Bosnia and the internal affairs of Yugoslavia, remain essentially unchanged.

Clearly, sanctions against the FRY were dictated by this policy. We demand that they be lifted, and if this does not happen, we reserve our right to take the necessary unilateral measures to defend our interests, especially since the sanctions cause us economic harm. In its struggle, the present Government of Serbia can count on the support of the great nation of Russia.

Second: The space of the former Soviet Union cannot be regarded as a zone of full application of CSCE norms. In essence, this is a post-imperial space, in which Russia has to defend its interests using all available means, including military and economic ones. We shall strongly insist that the former USSR Republics join the new Federation or Confederation without delay, and there will be tough talks on this matter.

Third: All those who think that they can disregard these particularities and interests – that Russia will suffer the fate of the Soviet Union – should not forget that we are talking about a state that is capable of standing up for itself and its friends. We are, of course, ready to play a constructive part in the work of the CSCE Council, although we shall be very cautious in our approach to ideas leading to interference in internal affairs.¹⁴

14 (First) Statement by the Russian Foreign Minister Andrei Kozyrev at the Stockholm Meeting of the CSCE Council on 14 December 1992; source: CSCE Secretariat, Prague (author's translation from the Russian).

He wound up his statement by adding: "I reserve the right to speak again on specific items." The audience was struck dumb. After a moment, Foreign Minister af Ugglas announced a coffee break. There was a commotion among the delegates. The foreign ministers of the great powers met with the Russian representative. After twenty minutes we returned to the conference room. Foreign Minister Kozyrev resumed the floor as the first speaker and explained that his previous speech had been a rhetorical gambit intended to bring home to Europe and the world what Russian policy could be like if President Yeltsin lost power. "I would like to assure you and all others present that neither President Yeltsin, who remains the leader and guarantor of Russian domestic and foreign policy, nor I myself, as Minister for Foreign Affairs, would ever agree with what I read out in my previous statement [...]. The text which I read out previously is a fairly accurate compilation of the demands of the opposition, and not just the most radical opposition in Russia. On this note [...] I would like to conclude this rhetorical part of my statement." He finished by explaining that "it was simply a device aimed at bringing home the danger of an alternative course of events".¹⁵

If truth be told, what Kozyrev called a rhetorical gambit has long been reality. Georgia was told to forget about the principle of territorial integrity of states as far as it was concerned – a fact driven home by Moscow's recognition of the legality of the secession of two Georgian provinces, Abkhazia and South Ossetia. As for non-intervention or non-interference in internal affairs, this principle (much invoked and yet heavily abused in the Soviet period, when it was used as a shield to enable the violation of human rights, the suppression of democratic opposition, and the restriction of freedom of expression, and when the totalitarian one-party state was identified with the state under the rule of law) is once again being used as a shield to camouflage the fact that the legal procedures and institutions which by rights should be safeguarding civil rights, freedoms, and liberties are merely a façade.

While lip service is paid to universal values (human rights, civil liberties, freedom of expression), there are no procedures and mechanisms to ensure that Russia fulfils the international commitments it has entered into under the auspices of multilateral security institutions (such as the OSCE and the Council of Europe).¹⁶ Kozyrev's rhetorical gambit, meant as a warning and a self-defeating prophecy, turned out in fact to be a harbinger of things to come. And come they did – along a much broader front than the author of that long forgotten statement could have foreseen.

15 (Second) Statement by the Russian Foreign Minister Andrei Kozyrev at the Stockholm Meeting of the CSCE Council on 14 December 1992; source: CSCE Secretariat, Prague (unofficial translation from the Russian). As the result of later developments, the Russian position at many later meetings (e.g. Istanbul 1999, Vienna 2000) was frequently close – in terms of both of the arguments used and the manner in which they were expressed – to that of Kozyrev's initial statement in Stockholm.

16 Cf. Igor M. Klyamkin (ed.), *Rossiya i Zapad. Vneshnyaya politika Kremlya glazami liberalov* [Russia and the West. Kremlin Foreign Policy in the Eyes of Liberals], Moscow 2009, pp. 46f.

Shaping a system of European security is a policy goal of practically all European states – Central, Northern, Eastern, Western, and Southern. In addition, transatlantic security is a concern of the United States, Russia, France, the UK, Germany, and Poland. Politicians throughout the region speak about European security, and when they do so, they generally have in mind the security of their own states. It follows that the effectiveness of the system depends not so much on the form (alliance, treaty, declaration, or other undertaking) and nature of commitments (be they legal or moral-political) as on the harmonization of interests, values, and the political will of the states to create the system. The security of one state or group of states cannot be constructed to the detriment of the security of others.

The collapse of the bipolar world prompted policy makers and experts to look for new security formulas based on *common security* or *co-operative security*. These concepts differ from those of the Cold War by their new axiology: *Common security* and *co-operative security* are based on a political philosophy of *inclusiveness* rather than *exclusiveness*. Arrangements made in the name of common or co-operative security may also be less rigid than legal commitments, as evidenced, for example, by the process that commenced in Helsinki and led to the establishment of the Organization for Security and Co-operation in Europe (OSCE).

The OSCE encompasses, without exception, all the states in the transatlantic area: Europe, Russia, the United States, Canada, the states of the Caucasus, and the Central Asian states. The strength of this structure lies not only in its universality of membership, but also in the *comprehensiveness* of its commitments, which extend to practically all dimensions of life: political (including military aspects), social, economic, and cultural-civilizational (human contacts, information, culture, education). The main weakness of the OSCE is that it provides more of a deliberative forum for consultations, debates, and reviews than a basis for operational activity. Even then, the flexible nature of the OSCE institutions and their capacity for ad hoc conflict prevention activities is not without significance. The effectiveness of this approach depends chiefly on a degree of mutual confidence among states. The OSCE has an advantage over other security institutions in that it has instruments and mechanisms to shape and monitor situations *within* states rather than merely *between* them. After the end of the Cold War, major threats and risks of conflicts within the transatlantic area have tended to arise from internal developments rather than from conflicts of interest and tensions between states. These conflicts, which have been predominately ethnic, national, and religious, call for a qualitatively new approach to crisis management, different from instruments designed to prevent wars between states. The system of military confidence- and security-building measures (CSBMs), for example, is inadequate to meet certain new challenges and threats. De-

signed to prevent conflicts between states, the CSBMs have not been adjusted to regulate intra-state situations and, for this reason, they failed to perform as intended either in the Russian North Caucasus or in the Balkans, when wars broke out between one-time republics of the former Socialist Federal Republic of Yugoslavia following its collapse.

The North Atlantic Alliance established a network of security institutions, including the Partnership for Peace (PfP), the Euro-Atlantic Partnership Council (EAPC), the NATO-Russia Council, the NATO-Ukraine and NATO-Georgia Commissions, and others. They represent another category of the security system that emerged after the end of the Cold War. Broadly construed, a security system for the 21st century should take into account the human dimension of security, which encompasses both human (individual) rights and the rights of minorities. This broad conception of security implies a commitment to respect the principles and values of the state under the rule of law, which include political pluralism, free markets, respect for freedom of the press, and other civic and political liberties. Respect for these norms and principles is a cornerstone of European security and binding on all EU member states. The member states of the Council of Europe are also bound to observe these norms. The legal instruments that the Council of Europe has at its disposal are considered a European code of conduct that guides the behaviour of the signatory states both towards their own citizens and towards the other signatories of the conventions adopted under the auspices of the Council of Europe.

This brief review of security organizations, structures, and institutions raises the question of the need to agree upon a new document to create, under international law, a basis for building a European or transatlantic security system. One thing is for certain: Europe is not short of institutions, norms, procedures, and regulations. Indeed, we have more than enough. This being the case, when initiatives concerning a treaty on a European security system are proposed, it is worth finding out what their “added value” is supposed to be.

The Russian proposals are hardly new. Suffice it to recall Mikhail Gorbachev’s initiative from the late 1980s to build, as part of the *perestroika* policy, a united democratic Europe: “our common European home”. Recent public statements made by Russian leaders – Vladimir Putin, Dmitry Medvedev, and Sergey Lavrov – demonstrate continuity in Russian political thinking rather than efforts to find answers to the changes that have occurred in Europe in the past twenty years.

After the collapse of the USSR, Boris Yeltsin, the President of the Russian Federation, radically changed Russia’s position on respecting human rights within the framework of the process commenced in Helsinki. In actual fact, however, this shift and the process of getting closer to the policy of the democratic community of Western states had been prepared and launched by Mikhail Gorbachev. As a result, many fundamental documents could be

agreed, including the *Charter of Paris for a New Europe* (1990)¹⁷ and a fundamental document adopted at the 1992 Helsinki Summit, *The Challenges of Change*.¹⁸

Russia and the NATO Enlargement Concept

The eastward enlargement of the North Atlantic Alliance has also been a matter of debate since the end of the Cold War, and is something of which Russia has consistently been critical. While the rhetoric of official Russian documents drew directly on Soviet propaganda, in his correspondence with the Western leaders, Boris Yeltsin used very different language. In his letter to Bill Clinton of 15 September 1993, the Russian president wrote: "The main threat to Europe is now posed not by the East-West confrontation, but by inter-ethnic conflicts of a new generation. [...] We understand, of course, that a possible integration of East European countries with NATO will not automatically produce a situation where the Alliance would somehow turn against Russia. We do not see NATO as a block opposing us. But it is important to take into account how our public opinion may react to such a step. Not only the opposition, but the moderates, too, would no doubt see this as a sort of neo-isolation of the country as opposed to its natural introduction into the Euro-Atlantic space."¹⁹

In other words, Yeltsin was arguing that while NATO was not an aggressive pact, propaganda would have its effect, and the president of Russia had to take account of this. On 15 September 1993, he wrote in a confidential letter to the four leading Western powers (the USA, the UK, France, and Germany): "And generally, we favor a situation where the relations between our country and NATO would be by several degrees warmer than those between the Alliance and Eastern Europe." He went on to suggest that "NATO-Russia rapprochement, including through their interaction in the peace-making area, should proceed on a faster track".²⁰ He continued: "For example, we would be prepared, together with NATO, to offer official security guarantees to the East European states with a focus on ensuring sovereignty, territorial integrity, inviolability of frontiers, and maintenance of peace in the region." Russia was thus seeking, on the one hand, to use institutional means to prevent the enlargement of the Alliance and, on the other, to become a guarantor of the independence of states in the Central and Eastern European

17 Charter of Paris for a New Europe, Paris, 21 November 1990, in: Arie Bloed (ed.) *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 537-566.

18 CSCE Helsinki Document 1992: *The Challenges of Change*, Helsinki, 10 July 1992, in: *ibid.*, pp. 701-777.

19 The full text of this letter was published as an annex to a chapter by Adam Daniel Rotfeld, Europe: towards a new regional security regime, in: *SIPRI Yearbook 1994: Armaments, Disarmament and International Security*, Oxford 1994, pp. 205-274, here: pp. 249-250.

20 *Ibid.*

region. This would create a grey zone, or a security belt, separating Russia from NATO. This plan presupposed that the states in this corridor would have limited sovereignty, the degree of their independence to be determined by the guarantors, notably Russia and NATO. This approach was not acceptable either to Poland or to other states in the region.

A Security Model and a Treaty Initiative

In the new situation, Russia set out to use the OSCE structures and institutions to rebuild the entire system of relations among European, North American, and Central Asian states. On the initiative of the Russian Federation, the participating States decided at the OSCE Budapest Summit (5-6 December 1994) to develop a common and comprehensive security model for Europe.²¹ In the subsequent twelve months, over 200 documents and proposals on this matter were submitted for consideration by the ministers of foreign affairs.²² Intensive debates lasting years failed to produce a new European security system. Andrey Kozyrev proposed a “road map” for arriving at a common model. Stage one would cover conceptualization of the model based on following assumptions: the indivisibility of peace; comprehensiveness and a complex approach; mutually complementary efforts by individual states and multilateral security institutions; bridge-building at different levels, and subsidiarity – the complementarity of the bilateral, regional, and transatlantic dimensions. Stage two, focusing on the “division of labour” among various security institutions, would cover the shaping of the model. The third and final stage was meant to be crowned with the enshrining of comprehensive security in a Great Treaty under international law.

This proposal, discussed fifteen years ago at a dozen conferences and meetings of experts and diplomats is now forgotten. Moreover, at the 2007 Munich Conference on Security Policy (now the Munich Security Conference), Vladimir Putin severely criticized the same Organization for Security and Co-operation in Europe of which Russia had been the initiator and main proponent ten years earlier. On 10 February 2007, Putin declared in Munich: “I am convinced that we have reached that decisive moment when we must

21 Budapest Document 1994, Budapest, 6 December 1994, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Basic Documents, 1993-1995*, The Hague 1997, pp. 145-189, here: p. 173.

22 Cf. Fifth Meeting of the Council, Budapest, December 1995, Decision No. 2, A Common and Comprehensive Security Model for Europe for the Twenty-First Century: A New Concept for a New Century, in: Bloed (ed.), cited above (Note 21), pp. 215-228, here: pp. 223-227. For a critical review and evaluation of that initiative, see: Adam Daniel Rotfeld, Europe: towards new security arrangements, in: *SIPRI Yearbook 1996: Armaments, Disarmament and International Security*, Oxford 1996, pp. 279-308, here: pp. 303-306.

seriously think about the architecture of global security.”²³ The principal aim of the Russian president was to question the global dominance of the USA in the political, economic, and military spheres. He also used the opportunity to criticize institutions that have made significant contributions to the peaceful transformation of the international system. Thus, he accused Western countries of transforming the OSCE into a “vulgar instrument designed to promote the foreign policy interests of one or a group of countries” at the expense of others.²⁴ He questioned the rationale behind the deployment in Europe of the US missile defence shield. Several months later, on 4 June 2007, in a conversation with journalists from G8 member states, President Putin predicted a new arms race,²⁵ while at the same time rejecting that Russia was responsible for it by “improving [Russian] strategic nuclear weapons”. Missile defence, Putin explained, disrupts the strategic balance. “In order to restore that balance without setting up a missile defence system we will have to create a system to overcome missile defence, and this is what we are doing now.”²⁶

Underlying this reasoning was the anachronistic idea that reverting to the doctrine of mutual deterrence could ensure security. Inevitably, the consequence of this doctrine is an arms race. A common US-European anti-missile defence system, achieved in co-operation with Russia, would be much more promising. However, such an alternative approach will not result from a decision-making process in which the military and general staffs have the final word. What is needed is a new political philosophy corresponding to 21st century requirements. It would neutralize potential threats which are not – and will not be – targeted at Russia from the West, but from the South. It cannot be ruled out that Putin’s belligerent tone and the confrontational rhetoric were dictated by internal needs and did not reflect the essence of Russia’s new assertive long-term strategy for relations with the outside world.

President Medvedev’s Plan

On 8 August 2008, a war lasting several days broke out between Russia and Georgia. It resulted in the secession of two rebel Georgian provinces, South Ossetia and Abkhazia. Russia recognized them as independent states, ignoring the principle of territorial integrity and the inviolability of Georgia’s

23 *Putin’s Prepared Remarks at 43rd Munich Conference on Security Policy*, Russian President, Delivered 10 February 2007, Transcript, Washington Post, at: <http://www.washingtonpost.com/wp-dyn/content/article/2007/02/12/AR2007021200555.html>.

24 *Ibid.*

25 “We will absolve ourselves from the responsibility of our retaliatory steps because we are not initiating what is certainly growing into a new arms race in Europe.” Russian President Putin’s Interview with G8 Newspaper Journalists, *Information Clearing House*, at: <http://www.informationclearinghouse.info/article17855.htm>.

26 *Ibid.*

frontiers. This broke three principles of the Helsinki Final Act: inviolability of frontiers (III), territorial integrity (IV), and non-intervention (VI).

Two months later, on 8 October 2008, Russia's President, Dmitry Medvedev, made the following statement in Evian: "Force divorced from law unavoidably breeds unpredictability and chaos when everyone starts fighting each other, as happened in Iraq. Any selective application of the basic provisions of international law undermines international legality."²⁷ In this context, the president of Russia mentioned Iraq because it was the Americans who mounted the armed intervention there. Medvedev outlined, in five points, the essence of a proposed European Security Treaty that would set common ground rules for the whole transatlantic area, from San Francisco and Vancouver to Vladivostok and Kamchatka.

First, the Treaty should confirm the basic principles of security in international relations and the readiness to apply them in good faith. Medvedev counted among these principles respect for sovereignty, the territorial integrity and political independence of states, and respect for all the other principles set out in the United Nations Charter.

Point two addressed the inadmissibility of the threat or use of force. The Treaty should establish the procedures and mechanisms for peaceful resolution of disputes.

Third, the Treaty should guarantee equal security – without prejudice to other states, without new lines of division, without the development of military alliances that would infringe upon interests of other signatories of the Treaty (in this context, the Russian president emphasized hard security).

Fourth, no state or international organization can have exclusive rights in respect of maintaining peace and security in Europe.

Fifth, basic arms control parameters and reasonable limits on the development of military programmes. This extends to new procedures and mechanisms for co-operation in preventing the proliferation of weapons of mass destruction and drug trafficking. The existing structures should be reviewed in terms of their effectiveness to address new tasks and counter contemporary threats and challenges.

Understandably enough, Russia's partners, to whom this plan was addressed, responded by asking themselves what purpose the new Russian initiative was intended to serve. Europe lacks neither institutions and procedures, nor mechanisms and legal instruments for ensuring security. The shortage of institutions, principles, and norms is not the real problem.

One may ask what the real motives are that prompted Russia to propose a new European Security Treaty. Certainly, the political motivation is the desire to prevent further enlargement of the North Atlantic Alliance, and in particular to block NATO entry for Ukraine and Georgia. The Russian Federation also presumably wants to agree on the creation of new instruments: As the legal successor of the Soviet Union, Russia would prefer to replace or

27 Medvedev, Speech at World Policy Conference, cited above (Note 2).

renew the norms negotiated under different conditions by another state, i.e. the USSR.

There can be no doubt that Russia is seeking to enhance its position in the world. This is normal, natural, and understandable. What remains uncertain is what choices the new Russian political elites will make. In matters of internal development, a discernible shift has occurred away from the democratic direction first taken in the time of Mikhail Gorbachev's *perestroika* and continued by Boris Yeltsin after the collapse of the USSR and towards authoritarianism. The latter has a long tradition in Russia: from Ivan the Terrible's despotism in the 16th century to Peter the Great's policy of opening Russia to Europe and Catherine the Great's empire-building in the 17th and 18th centuries. Attempts at reforming Russia undertaken in the late 19th and early 20th centuries by the governments of Prime Ministers Sergey Witte and Pyotr Stolypin went hand in hand with neither democracy nor the building of a state under the rule of law. Autocracy dominated. This form of rule enables the concentration and mobilization of resources, in particular for the needs of the military, but it impedes substantially the employment of intellectual potential – a major factor in the accelerated modernization necessary in the era of information technology and biotechnology.

On 18 May 2007, the OSCE delegation of the Russian Federation distributed the draft of the OSCE Charter in Vienna.²⁸ The aim of this Russian initiative was “to finalize the transformation of the OSCE into a fully-fledged international organization”.²⁹ The Charter was intended to grant the OSCE international legal personality and legal capacity. One aim was to establish a new formalized institution based on the existing loose structure rather than to strengthen the effectiveness of OSCE activities. The weaknesses of the OSCE are not rooted in the lack of bureaucratic structures. They originate rather in the unwillingness of the participating States to make proper use of existing institutions and advantages offered by decisions taken ad hoc.

It seems that the real motives behind the Russian concept of a new security architecture were reflected both by President Medvedev in his statement at the annual meeting of ambassadors of the Russian Federation (Moscow, 15 July 2008) and in the lecture delivered by Sergey Lavrov at the MGIMO University (Moscow, 1 September 2008).³⁰ They attempt to formalize and legitimize Russia's new understanding of security, which is based on the balance of power and a recognition of “zones of privileged interests” in the post-Soviet area. With regard to the self-proclaimed new semi-independent States (Abkhazia and Southern Ossetia), Lavrov made an interesting comment: “It should be understandable that South Ossetia and Abkhazia did not seek independence in general, but precisely independence

28 Cf. OSCE Document PC. DEL/444/07, Vienna, 18 May 2007.

29 Ibid.

30 Cf. Transcript of Speech by Russian Minister of Foreign Affairs Sergey Lavrov at the Foreign Ministry's MGIMO University on the Occasion of the New Academic Year, 1 September 2008, at: www.mid.ru.

from the Georgia whose leadership for some reason has always tended to be chauvinistic towards ethnic minorities.”³¹ One may interpret this as a conditional independence: one that is justified as long as chauvinists hold on to power in Georgia.

President Medvedev proposed to convene a pan-European summit, the aim being to initiate the process of drafting the Treaty on European Security. The agenda, explained Lavrov, would focus on the crisis around CFE, the US installations in Central-Eastern Europe, and more general issues.

At the Munich Security Conference (8 February 2009), Javier Solana, the EU High Representative for the Common Foreign and Security Policy, directly addressed the new Russian policy, saying: “Some principles underpinning European security are non-negotiable:

- that we do it with the US;
- that countries are free to choose their alliance; and
- that we reject notions such as spheres of privileged influence.”

“Russia knows all this,” Solana continued, “just as it knows that there are many elements we can work with: the primacy of international law is one. Calls for legally binding instruments and more transparency are good too. Not just in political and military terms, but also for energy and gas.”³²

Solana’s reply was short, simple, and to the point: The European Union is ready to talk, provided the talks are serious and to the point, rather than overly general or mere propaganda exercises. Russia’s pursuit of a new architecture of security is dominated by an abstract (formalistic or legalistic) approach compared to the Western attitude, which is more pragmatic, praxis-oriented, and concrete.

In his book on the history of the CSCE/OSCE process,³³ the former head of the Soviet delegation to the CSCE Vienna meeting, Ambassador Yuri Kashlev, made clear that the aim of the Soviet Minister for Foreign Affairs, Andrey Gromyko at the Conference on Security and Co-operation in Europe in Helsinki (1973-75) was to conclude a treaty under international law and confirm the results of the Second World War, including recognition of new borders and the partition of Germany. The intention was to sign a kind of delayed multilateral “peace treaty”. As a compromise, the Declaration on principles guiding relations between participating States was included in the CSCE Final Act.³⁴

31 Ibid.

32 Dr. Javier Solana Madariaga, *Speech at the 45th Munich Security Conference*, 7 February 2009, at: http://www.securityconference.de/konferenzen/rede.php?menu_2009=&menu_konferenzen=&sprache=en&id=235&print=&.

33 Yuri Kashlev, *Khelsinki protsess 1975-2005: Svet i teni glazami uchastnika* [The Helsinki Process 1975-2005: Light and Shadow in the Eyes of a Participant], Moscow 2005, p. 6.

34 Cf. *The Road to Helsinki. The Early steps to the CSCE*. Selected documents from the National Archives, the Gerald Ford Library and the National Security Archive. Docu-

More than 30 years on, the time is ripe to rethink some principles and definitions. This is especially true with regard to the principles of the sovereign equality of states (Helsinki Principle I), non-intervention in internal affairs (VI), and the self-determination of peoples (VIII). They need to be changed to ensure they reflect the new realities and fundamental changes in the security environment.

The International Security System and a New Concept of State

The key distinguishing feature of the new security environment is the erosion of the institution of the state. The role it has played for over 350 years as part of the Westphalian system is being changed in a fundamental way. The classic definition of the state includes three elements: a defined territory, a population, and effective authority (government).³⁵ In terms of international law, as founded in the United Nations Charter, territorial sovereignty and the principle of the sovereign equality of states prevent any intervention in matters that are within the internal competence of any state.³⁶ In reality, there have been several significant changes since the UN Charter was signed in 1945. The three classical criteria for the definition of a state should be amended to include some additional requirements (and in essence they already have been, via the adoption of treaties and conventions): a) state authority has to be not only effective, but its execution pursuant to internal law has to rest on rules and norms arising from obligations under international law (this applies particularly to respecting human rights and the rights of minorities); b) states are subject to appraisal and accountability by their own societies and by international institutions (such as the UN Human Rights Council, at the global level, or the OSCE and the Council of Europe, in a regional context) and are accountable to them. State authorities cannot circumvent this obligation by reference to the principle of non-intervention in internal affairs. The world in our time is thus based on new principles: It is ruled by additional mechanisms and procedures that complement the classical legal order of the Westphalian system in important ways.

Awareness of this state of affairs is making difficult headway among those leading elites that wish to maintain the status quo and are seeking to counter the changes that are unfolding. It is also only slowly gaining a foot-

ments compiled for the Machiavelli Center for Cold War Studies and the Cold War International History Project by Hedwig Giusto, Mircea Munteanu, and Christian Ostermann. Florence, 29-30 September, 2003.

35 Cf. Karl Doehring, State, in: Rudolf Bernhardt (ed.), *Encyclopedia of Public International Law*, Volume IV, Amsterdam 2000, pp. 600-605.

36 This sovereign privilege follows from Article 2, section 7, of the Charter of the United Nations, according to which "nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter [...]".

hold among significant segments of the population in various countries and regions where these changes are undermining the sense of certainty and stability regarding the traditional organization of society.

Also as a result of the erosion of the state, the current international security system is confronted with a new family of threats and challenges. These are not posed by aggressive powers (such as North Korea and Iran) but by an increasing number of weak, failing, and failed states. The new international security order needs to offer an adequate response to these new risks in a pragmatic and operational sense rather than constructing new models.

The concept of state presented by President Medvedev (Yaroslavl, 14 September 2009) at the conference on The Modern State and Global Security is a quite different and rather traditional one. In Medvedev's view, it is the state and not the international community or multilateral security institutions that has to take responsibility for protecting its own security and stability, and the lives of its citizens both within its borders and beyond them.³⁷ But, as we have seen, the current situation is more complex and should not be based on any oversimplified models.

Models are useful in the pure sciences. But international politics and European security operate by different rules. In relations among states in the 21st century, ensuring the security of states has to be harmonized with respect for the universal values of the rule of law in internal governance.

Closing Remarks

The present situation is unique: Europe is enjoying a stability it has not known in nearly 300 years, while no European country poses a direct threat to its neighbours. This is due to a number of concurrent factors, including the memory of the two world wars, which were a disaster for Europe, and democratic governance and the rule of law, which, far from encouraging conflicts among states, offer optimal conditions in which to look for solutions based on compromise and political settlement. Two great European institutions (NATO and the EU) have become a new centre of gravity for all the continent's states. Besides ensuring security, they are a practical and appealing example of how national animosities and quarrels can be overcome. They also create external conditions that promote optimal internal development and accelerated modernization. It is not without consequence either that the transatlantic security institutions have been capable of successfully promoting universal values and preventing internal conflicts potentially capable of evolving into wars between neighbouring states.

37 Cf. Speech of the President of the Russian Federation Dmitry Medvedev at the Plenary Session of the International Conference "The Modern State and Global Security", Yaroslavl, 14 September 2009.

In the view of a group of leading Russian researchers and experts, by implementing Medvedev's initiative for a new architecture of European security, at least three strategic objectives could be attained:

- firstly, the stabilization of the international political situation in Europe and the reversal of the emerging threats that Russia faces;
- secondly, the boosting of co-operative interaction in Europe; and
- thirdly, the "narrow[ing of] the difference in the interpretation of political and legal aspects of ensuring Euro-Atlantic security".³⁸

The Russian report published on the issue suggests that: "The summit should be not the final but the opening line in the endeavor. The document it would adopt could, for instance, be essentially a declaration containing the main reference points of the emerging creative process."³⁹ In other words, the proposed new architecture should not be seen as a single act, but a long, open-ended process, one which aims at setting new political rules – a kind of code of conduct rather than a treaty under international law.

Under the present circumstances, the line separating the internal and the external is becoming blurred. A number of norms and principles agreed in Cold War times need to be redefined. This applies in particular to the principle of the sovereignty of states and the principle of non-intervention in their internal affairs. These principles should be interpreted in the context of the universal commitment to respect the rule of law and democratic governance and to observe human rights and the rights of minorities. If the proposed new security architecture gave these commitments the form of a treaty concluded under international law, it would certainly be endorsed by all the democratic member states of the transatlantic community. The West and Russia have a unique chance to improve their relations and construct a new security order based on trust, co-operation, and respect for both the legitimate security interests of all parties and observation of fundamental universal values. The key element is not one of form (legal or political), but content: how to reconcile the often contradictory national interests of individual states and the universal values of the community of post-modern states. The new administration in the United States has demonstrated it has the courage to "reset" its relations with Russia, which has opened the way for a new beginning. President Obama's efforts will only be effective, however, if Russia demonstrates the reciprocity and political will needed to construct the new security system based on respect for universal principles both *among* the states and *within* them. Otherwise, the historical momentum will decline and the opportunity will be lost. The time is ripe to construct it together – for and not against each other.

38 Igor Yurgens/Aleksander Dynkin/Vladimir Baranovsky (eds), *The Architecture of Euro-Atlantic Security*, Moscow 2009, pp. 73-75.

39 Ibid., p. 75.

The Russian Proposal for a Treaty on European Security: From the Medvedev Initiative to the Corfu Process

Introduction

Despite the initial scepticism of many experts, Russian President Dmitry Medvedev's proposal for a (new) European Security Treaty, which he announced in Berlin on 5 June 2008, has received a positive response.

Going beyond bilateral talks, the first multilateral informal discussions were held at the working lunch for the foreign ministers of the OSCE participating States at the Ministerial Council in Helsinki in December 2008. This debate was carried on in 2009, mostly in the OSCE context. Thanks to the efforts of the Greek OSCE Chairmanship, it continued in late June 2009 with an informal meeting of foreign ministers on the island of Corfu.

Between the two, several rounds of diplomatic discussions had been held both within and outside the OSCE. After the meeting in June 2009, they were brought together in what became known as the "Corfu Process" – a fairly structured weekly debate in the OSCE Permanent Council. The aim of the Corfu Process was to prepare for the continuation of the security dialogue instigated by the Russian President in the OSCE context. The plan was for the form and possibly also the agenda of this dialogue to be determined by the Ministerial Council at its annual meeting in Athens in December 2009.

However, many questions regarding the proposed Treaty on European Security remain open or require further clarification. This has led to much speculation over what lies behind the Russian initiative and the possibility of a "hidden agenda".

For one thing, a year and a half after the original proposal was made, the concept of the treaty remains vague and contains little in terms of concrete detail. Moscow has given only very loose indications of how it conceives of the goals and content of the proposed treaty and what it hopes may be achieved through its elaboration. All that is certain is that Moscow would like to restrict the discussions to questions of traditional military ("hard") security, though it only has the support of a few states – above all its allies Belarus and Kazakhstan – in this.

Second, the institutional context in which this debate over European security should take place has still not been finally determined. While it was easy to win Moscow over to the idea that the OSCE should be an important platform for the debate (the Corfu Process), in contrast to most of the other participating States, the Russian foreign service does not wish to rely entirely on the OSCE and is attempting to establish a parallel debate involving other

security organizations in the Euro-Atlantic space, above all NATO, the EU, the Commonwealth of Independent States (CIS), and the Collective Security Treaty Organization (CSTO) – an alliance, created by Russia, of seven of the twelve successor states of the Soviet Union.

To bring this about, Russia has proposed to convene a meeting of the leaders of these organizations. This proposal, which is supported by the CSTO, has however met – with very few exceptions – with little understanding in other security organizations.

Last but not least, it was proposed that the idea of a European Security Treaty be discussed in the Russia-NATO Council and with the European Union within the scope of the consultations on the “Common Space” of External Security.

So far, however, all we have is an intensified security policy dialogue in the OSCE context, which was put on a more solid footing and given structure by a decision of the Ministerial Council in Athens in December 2009.

This contribution will begin by tracing the gradual process in which the Medvedev proposal has been given substance and the Russian perception of its partners’ reaction to this. It will then discuss the reasons behind the Medvedev proposal, to the extent that they can be determined. Third and finally, it will discuss potential options for dealing with the concerns implicitly and explicitly proposed for debate by Moscow.

The Fleshing Out of the Medvedev Proposal

In the speech he gave in Berlin on 5 June 2008,¹ President Medvedev proposed merely the concluding of a pact on the renunciation of force for Europe, or rather for the OSCE area, which would also encompass the principle of the indivisibility of security and a basis for the continuation of arms control. Certain basic ideas mentioned in his speech, when considered alongside other developments, reveal the deeper motives of the Russian proposal.

As well as implicitly criticizing NATO’s eastward enlargement (with a reference to the destructive effect of “continuing the old line of bloc politics”), which he said leads to the marginalization and isolation of the states not included in this process (i.e. Russia) and prevents the establishment of a pan-European system of collective security (i.e. the OSCE), Medvedev declared Atlanticism to be obsolete. The OSCE participating States, in their individual capacities and with the participation of relevant security organizations, should negotiate a new security order – one that goes beyond the security order embodied in today’s Euro-Atlantic institutions, and which would thus be truly inclusive from Vancouver to Vladivostok.

1 President of Russia Dmitry Medvedev, *Speech at Meeting with German Political, Parliamentary and Civic Leaders*, Berlin, 5 June 2008, at: http://www.president.kremlin.ru/eng/speeches/2008/06/05/2203_type82912type82914type84779_202153.shtml.

The starting point for the kind of negotiations that could be granted a mandate by a Summit of the Heads of State or Government should be “naked” national self-interest, freed of all ideological considerations (i.e. from democratic political messianism).

Speaking at the 63rd General Assembly of the United Nations in New York on 27 September 2008, Russia’s foreign minister, Sergey Lavrov, explained that Moscow’s concern was *to reaffirm fundamental principles of international law*, such as the non-use of force, peaceful settlement of disputes, respect for the sovereignty and territorial integrity of states, non-interference in internal affairs, the indivisibility of security, and the inadmissibility of strengthening one’s own security at the expense of the security of others.²

At a press conference in New York two days later, Lavrov insisted that these fundamental principles were correct.³ However, he argued, it was necessary to consider *what mechanisms should be developed to ensure their effective implementation*.⁴

In his speech to the World Policy Conference in Evian, France, on 8 October 2008,⁵ President Medvedev went into the proposal in more detail.

First, he reiterated the view that a new European security order should *not exclude (or isolate) any state in the Euro-Atlantic area*. On the contrary, it should establish common security policy rules for all participants, with no exceptions.

Second, he outlined what he believed the core features of the Treaty should be:

1. *The fundamental principles of security and international relations in the Euro-Atlantic space should be explicitly affirmed in a form that is binding under international law*: These include the fulfilment in good faith of obligations under international law; respect for sovereignty, territorial integrity, and the political independence of states; as well as other basic principles set out in the UN Charter. Medvedev stressed the principle of the non-use of force, in particular.
2. The Treaty should guarantee the *uniform interpretation and implementation of those principles*. It could also provide a unified framework for

2 Cf. *Address by Sergey V. Lavrov, Foreign Minister of the Russian Federation, at the 63rd Session of the UN General Assembly*, 27 September 2008, at: http://www.in.mid.ru/BRP_4.NSF/f68cd37b84711611c3256f6d00541094/4fffd1ed4cbfe51bc32574d30022ea5c?OpenDocument.

3 Cf. *Stenogramma otvetov na boprosi SMI ministra inostrannih del Rossii S.V. Lavrova na presskonferencii* [Record of Answers to Questions Posed by Journalists to Minister for Foreign Affairs of Russia S.V. Lavrov], New York, 29 September 2008, at: http://www.mid.ru/brp_4.nsf/0/8AD02B8251A2E8F8C32574D5004A4B4C; cf. also United Nations, *Press Conference by Minister for Foreign Affairs of Russian Federation*, 29 September 2008, at: http://www.un.org/News/briefings/docs//2008/080929_Lavrov.doc.htm.

4 Cf. Address by Sergey V. Lavrov, cited above (Note 2).

5 President of Russia, *Speech at World Policy Conference*, 8 October 2008, Evian, France, at: http://eng.kremlin.ru/speeches/2008/10/08/2159_type82912type82914_207457.shtml.

the prevention and peaceful settlement of conflicts in the Euro-Atlantic space by placing the emphasis on dispute settlement by negotiation, respect for the positions of all sides, and international peacekeeping mechanisms. The Treaty itself could even contain procedures for peaceful settlement of disputes.

3. The Treaty should guarantee all parties *equal security*. This should be guaranteed by means of three stipulations:
 - a. No state or states should ensure their own security at the expense of the security of others.
 - b. No acts by military alliances or coalitions should undermine the unity (indivisibility) of the common security space.
 - c. Military alliances should not be developed at the expense of other parties to the Treaty.The Treaty should also explicitly and exclusively focus on the relationships between the states parties in the area of “hard” (military) security.
4. The Treaty should confirm that no state or international organization can have exclusive rights to maintaining peace in Europe. This should apply just as much to Russia as to the other states.
5. The Treaty should establish key parameters for arms control and reasonable limits on military construction. Agreement should also be reached on new procedures and mechanisms for co-operation in combating WMD proliferation, drug trafficking, and terrorism.

While Medvedev proposed assessing the effectiveness of the existing security organizations in the Euro-Atlantic space, he made clear that none of them was to be called into question. The task was rather to establish rules to ensure that they can work together more harmoniously.

In Evian, Medvedev did not want to decide which platform should be used for the discussion of his proposals. In other words, Moscow already had doubts whether the discussion would be best carried out entirely in the OSCE context. This despite the fact that, at Evian, French President Nicolas Sarkozy had strongly urged his Russian colleague to pursue this path.

In November and December 2008, Russia distributed, first to the EU states (prior to the Russia-EU summit in Nice on 14 November) and then in the OSCE, a non-paper containing a list of the “elements” of a European Security Treaty, which formed the basis of the informal discussions among the foreign ministers in Helsinki on 4 December 2008. In his statement during the working lunch, the Russian foreign minister, Sergey Lavrov, made clear that the meeting he had in mind to discuss the Treaty was very far from a “conventional” OSCE Summit Meeting. Not least because other relevant security organizations were to take part in the meeting.⁶

⁶ Cf. *Russian Initiative Regarding A Treaty on European Security*, MC.DEL/44/08, 5 December 2008, p. 2, at: http://www.osce.org/documents/mcs/2008/12/35468_en.pdf.

The non-paper did not contain much that President Medvedev had not already spoken of publicly in Evian. It listed six basic principles of European security. Besides the principle of the fulfilment in good faith of obligations under international law, respect for sovereignty, territorial integrity, the political independence of states, and non-intervention in domestic matters, which had already been mentioned in this context by Medvedev and Lavrov, the list included equality and the right to self-determination of peoples. The principle of the renunciation of force was considered separately.

A new aspect in the conception of equal security was the inclusion of the right of states to neutrality, though there was no mention of their right to the freedom to choose or change their security arrangements, including treaties of alliance, as they evolve. The non-paper also saw a possibility of holding urgent consultations in the UN Security Council as well as discussions with states that are looking for support in asserting their right to individual or collective defence. However, this was not new either. An urgency procedure already exists in the Security Council, and states including Russia have made use of it, most recently at the start of the war in Georgia on the night of 7-8 August 2008.

The possibility of holding consultations with an OSCE participating State “seeking assistance in realizing its rights to individual or collective self-defence” already exists according to para. 16 of the 1999 Charter for European Security and the OSCE Code of Conduct on Politico-Military Aspects of Security (Budapest, December 1994), though it has never been tested in practice.

In fact, Russia’s representatives continued to stress that Moscow’s proposals would entail no new or almost no new commitments, but that their added value lay in the fact that they would take what had so far been merely political commitments contained in OSCE documents and give them the binding force of international law through the signing of a treaty.

Foreign Minister Sergey Lavrov presented a revised version of Moscow’s proposals at the OSCE’s Annual Security Review Conference in Vienna on 23 June 2009.⁷ However, few substantive areas of the proposal had been overhauled, most notably the principles for arms control and conflict resolution.

According to the amended proposal, arms control, confidence-building, and reasonable military sufficiency should be based on the principles of *non-offensive defence* and abstention from the *permanent additional stationing of substantial combat forces outside one’s territory*. One thing necessary to enable this would be to give the term “substantial combat forces” a precise def-

7 See Statement by Mr. Sergey Lavrov, Minister for Foreign Affairs of the Russian Federation, at the Opening Session of the OSCE Annual Security Review Conference, Vienna, 23 June 2009, PC.DEL/480/09, 23 June 2009, at: http://www.osce.org/documents/cio/2009/06/38332_en.pdf.

inition – something that has been under discussion since the signing of the NATO-Russia Founding Act in 1997.

In addition, all parties to the treaty should commit themselves to continuing arms control efforts and the ongoing adaptation of existing arms control regimes.

The use of force for purposes of *conflict resolution* should be made inadmissible. Conflict parties should be obliged to enter into dialogue with each other and respect the formats for negotiating and peacekeeping agreed upon. There should be three phases to conflict resolution itself: commitments to abstain from the use of force, confidence-building, and dialogue between the parties. The protection of the civilian population in conflict zones, the fulfilment of their humanitarian and socio-economic needs, and the inviolability of peacekeeping forces deployed as a result of mutual agreement was to be absolute conditions for all conflict parties.

In Vienna, Lavrov also proposed to continue the dialogue on a European Security Treaty by convening, on the basis of the OSCE's 1999 Platform for Co-operative Security, a meeting of the heads of the OSCE, NATO, the EU, the CIS, and the CSTO. The focus of the meeting should be the security strategies of the various organizations.

That is how the Russian proposal took shape in the period up to the summer of 2009. In preparation for the annual meeting of the OSCE Ministerial Council, Foreign Minister Lavrov announced, on 1 October 2009 in Moscow, on the occasion of the regular consultation on security matters between the French and Russian ministers of foreign affairs and defence, that Russia would present a formal treaty proposal in the foreseeable future.

In the discussion of the Medvedev proposal so far, the following basic aspects of the Russian position stand out:

First, despite criticism, Moscow continues to insist that any agreement take the form of a treaty and be binding for international security organizations such as NATO as well as the individual states.

Second, Russia does not hope to establish any new principles of interstate relations in the area of security policy. In truth, the Russian proposals differ only slightly from existing obligations and commitments defined in the UN Charter and OSCE documents. Rather, it seeks to set down a *uniform interpretation* of these principles so as to avoid repeated disagreements over their application in the future. In the proposals made so far, however, Moscow has in most regards carefully avoided setting forth its wishes as to how the principles to be contained in the Treaty should be interpreted.

Third, when addressing individual principles to be included in the Treaty, there is a strong emphasis on the principle of *equal and indivisible security* and on the *inadmissibility of seeking to strengthen one's own security at the expense of others*. However, here, too, there is a lack of specific details about how Moscow imagines these principles will be turned into something suitable to be the subject of a treaty.

This reflects Russia's criticism of "NATO-centrism" in the European security architecture. In the press conference he gave in New York in September 2008, Lavrov made clear where Moscow considers that these principles have been violated: The plans of the (former) US government to station components of missile defence systems in Poland and the Czech Republic; NATO's eastward enlargement; the plans to establish new US bases in Romania and Bulgaria; and the lack of readiness on the part of the (former) US government to seriously talk about nuclear arms control and the maintenance of strategic parity with Russia.⁸ Lavrov made a similar set of comments in June 2009 in Vienna.

Fourth, in Moscow's view, *the uniform application and interpretation* of the principles contained in the Treaty should be *guaranteed by mechanisms* also to be established in the Treaty. The proposals made so far, however, have contained no indication of what Moscow imagines these mechanisms might consist of.

The Background

Russia's proposals so far have failed to name Moscow's current concerns explicitly. It is therefore not surprising that they have been subject to some fairly harsh criticism in the discussion among Russian experts.⁹ The latter have not only drawn attention to the fact that the "elements" of the draft treaty contain little that is new and consist on the whole of phrases quoted from various OSCE documents. They have also stressed that the OSCE *acquis*, which the Russian proposal claims to seek to give legal force to, is cited only very selectively, with many key components of it being ignored.

They point out, for instance, that political pluralism, rule of law, and respect for human rights have long been accepted as integral parts of European security, whose comprehensive character cannot be overlooked.

They also stress that "the inherent right of each and every participating State to be free to choose or change its security arrangements, including treaties of alliance, as they evolve"¹⁰ is so clearly specified in all relevant basic documents of European security that any attempt to exclude it and to stress merely the right to neutrality can only lead to irritation and is certainly not helpful.

Several Russian experts are also skeptical regarding the possibility of achieving a common interpretation of the principle of indivisible security.

8 Cf. Lavrov, cited above (Note 3).

9 See, e.g. Igor Yurgens/Alexander Dynkin/Vladimir Baranovsky (eds), *The Architecture of Euro-Atlantic Security*, Moscow 2009.

10 So, e.g., in the Charter for European Security, Istanbul, November 1999, in: Organization for Security and Co-operation in Europe, Istanbul Summit 1999, *Istanbul Document 1999*, Istanbul 1999, pp. 1-45, here: p. 3, para. 8, at: http://www.osce.org/documents/mcs/1999/11/4050_en.pdf.

The key concern of the Russian leadership, however, does not have to be tied up with these or any other specific phrases or expressions, and may indeed not even require the form of a treaty. President Medvedev's proposal for a European Security Treaty rather reflects Moscow's deep disappointment at the realization that it had failed to find an appropriate place for itself in a European security order that is dominated by an expanding NATO, increasingly also by the European Union, but certainly not by the OSCE. In any case, Moscow has failed to find a role in this order that it would itself consider to be appropriate.

This feeling was made clear above all in the statement Foreign Minister Lavrov made in Vienna on 23 June 2009, in which he noted: "We differ with regard to the methods to be used to bring about the unity of Europe." Lavrov also made clear where the difference lies: "It would have been enough to ensure the systematic institutionalization of the OSCE and its conversion into a fully fledged regional organization within the terms of Chapter VIII of the Charter of the United Nations. That is, the OSCE would have dealt with the entire range of problems in the Euro-Atlantic area and, above all, it would have ensured, on the basis of legally binding obligations, an open system of collective security in the region. Regrettably, our western partners took another path, that of not merely preserving but of expanding NATO [...]"¹¹

The key problem addressed by Medvedev's proposal thus appears to be the need to give Moscow a sense of appropriate involvement in the European security order without Russia joining NATO or the European Union and without damaging the interests of other European states. Only once one has conceived of credible options for solving this problem will it be possible to tell whether signing a treaty will be necessary or not.

It might perhaps suffice for Russia and NATO to agree on the parameters of a new agreement for the limitation of conventional arms in Europe and to define precisely what is meant by NATO's commitment not to deploy "substantial combat forces" and military reinforcement infrastructure near the Russian border.

In addition, perhaps Russia, the European Union, and the transit countries could reach agreement on a mechanism to guarantee the secure delivery of energy from Russia to Europe, or make it easier for the OSCE to become involved in areas of conflict to prevent escalation without the need for the consensus of all the participating States.

That is easier said than done. But the real problem lies much deeper.

In the first instance, Russia defines itself as a status quo power in the Euro-Atlantic space. And it must be added that it sees the change of the status quo in the last 20 years, of which the eastward expansion of NATO and the EU is a significant part, as a process that has taken place at Russia's expense. In Moscow, there is a widespread belief that more has been lost than won in

11 *Statement by Mr. Sergey Lavrov, cited above (Note 7), p. 2.*

this process of change: Eastern-Central Europe, for a start. Russia's sphere of influence or "responsibility", however, appears not only to have shrunk, but is also being continuously challenged. Moscow is therefore now concerned with whether it can hold on to its own zone of integration and security in the area of the former Soviet Union (excluding the Baltic States).

This is most commonly addressed in terms of NATO's eastward enlargement, and Russia's vehement opposition to the offer of potential membership to Georgia and Ukraine. However, the EU policy of Eastern Partnership, which is directed at six states in Eastern Europe and the South Caucasus, is also increasingly seen in Moscow as a potential challenge to the status quo in the area of the former Soviet Union – though not a current one.

Second, Moscow assumes, at least officially, that the process of eastward enlargement of NATO and the European Union has more or less come to an end, or will soon do so. Whether this thesis is true or false, or somewhere in between, is open to question. What matters is that it reflects Moscow's analysis.

"NATO has already admitted all the nations it can", wrote Vladimir Voronkov, Director of the Department of Pan-European Co-operation at the Russian Ministry of Foreign Affairs. "Other states cannot expect membership or do not seek it. The situation with the European Union is even more complicated. The European Union invents more and more new criteria and barriers for the candidates. The EU, especially in the times of crisis, cannot admit new members without detriment for itself. The only exceptions would be Iceland and Croatia. This means that a large number of countries in the Euro-Atlantic area in the coming years, or even in the next few decades, will remain outside NATO and the EU."¹²

In this way, the problem addressed by the Medvedev proposal is defined as concerning the need for states and regional organizations outside NATO and the EU having to organize their relations in the area of security policy – if possible by means of a European security treaty.

The task appears to grow in urgency as Russia's own integration and security space is subject to increasing dissolution. The institutions that should secure dominance for Russia in its plans for integration in the fields of economics, politics, and security policy, above all the Commonwealth of Independent States but also others – the Eurasian Economic Community, the CSTO, and the Union with Belarus – are lurching from one crisis to another and are being politically ever more marginalized. The actual core of the "Russian" geopolitical space is increasingly being reduced to the project of a trilateral customs union with Belarus and Kazakhstan – an undertaking whose success is very far from certain.

12 Vladimir Voronkov, *Dogovor o evropeiskoi bezopasnosti: posle Korfu* [The European Security Treaty: After Corfu], in: *Index bezopasnosti. The Russian Journal of European Security*, Autumn-Winter 2009, No. 3-4 (90-91), at: <http://www.pircenter.org/index.php?id=1248&news=5254> (author's translation).

Against this background, the main goal of the Medvedev proposal becomes obvious: to halt the encroachment of the “West” and its institutions upon the post-Soviet “East”. It is also noteworthy that a significant portion of the Russian political elite is confident that this goal can be achieved.

However, Moscow’s call to establish new “rules of the game” in Europe or to clarify how the old rules should be applied does not yet answer the question of what Moscow would consider to be an appropriate role for Russia in a European security order. Nor is this question answered in the “elements” of the European Security Treaty.

Theoretically, Russia can choose its policy with regard to the existing European security order from three options.

In the first instance, it could set the goal of *revising* this order or even replacing it with another with which it feels more comfortable. This would entail absorbing the current order, which is largely dominated by NATO, the EU, and the Council of Europe, in a “less Western” pan-European order.

In the second place, it could seek ways of *integrating* into the “Western” Euro-Atlantic security order, thereby gaining a voice in the relevant institutions.

Third, it could take a middle way, *seeking to complement* the existing security order with co-operative institutions that would enable Moscow to protect its interests in dialogue with NATO and the European Union.

It appears that Moscow has not settled finally on one option. Its preferences are, however, clear. Most of all, Moscow would have liked to revise the European security order based on NATO and the European Union. However, it knows that it does not have the power to undo the enlargement of the Western alliance. At the same time, the Russian political class demonstrates neither the will nor the courage necessary to integrate into the “Western” security order, as they do not wish to see either their identity or their freedom of action subsumed into it.

Moscow therefore sees the task facing it above all as one of preventing the further expansion of the West and complementing the existing security order with mechanisms for co-operation with NATO and the European Union in a way that will protect Moscow’s “privileged interests” (in President Medvedev’s words) from further erosion as far as possible.

This act of complementing or extending the current security order can, in practical terms, be linked to four policy options. None of them explicitly requires the signing of a treaty, but nor does any exclude the possibility. What is certain is that each of these options would be implemented in a series of discrete practical steps, the totality of which alone would determine the overall policy vector.

The four policy options are as follows:

1. *Consolidating the contemporary status quo (or a new Yalta)*. This would require, in the first instance, NATO to explicitly or implicitly renounce any further eastward expansion and to explicitly or implicitly recognize the post-Soviet space – with the exception of the Baltic states – as a zone of Russia’s “privileged interests”. The current debate in Russia reveals three essential elements to a political solution of this kind:

First, mutual recognition by NATO and the CSTO of the exclusive responsibility of each for ensuring security in their respective direct areas of application, as defined by their memberships. As well as the mutual recognition of the inadmissibility of the use of force, this could also conceivably include intensified out-of-area co-operation between the two alliances, for instance in the stabilization of Afghanistan.

Second, it seems reasonable to assume that the post-Soviet states that currently belong to no alliance and do not wish to join the CSTO (Azerbaijan, Georgia, Moldova, Turkmenistan, and Ukraine) would like to reaffirm their status as neutral states. This can be internationally guaranteed, for instance on the model of Austria, if need be.

Third, trilateral strategic co-operation between Russia, the USA, and the European Union should be encouraged and given institutional form. While this would exclude the possibility of interference in each other’s “zones of responsibility”, it should enable strengthened co-operation, including in joint crisis management activities outside Europe and in combating cross-border terrorist activities, illicit drug trafficking, organized crime, and illegal migration.
2. *Integration of Russia in the existing system of transatlantic organizations (accession)*. This policy option would not only require the development of an intensified partnership between Russia and NATO and Russia and the European Union (with association a real prospect and even membership not off the table) as a precondition, but also increasing convergence between Russia’s political and economic order and that of the West. If this option of the gradual development of a political community of values including both Russia and the West were to become realistic (which it clearly is not at present), the controversy over the eastward expansion of the West would gradually lose its explosive character, as such a development would entail Russia itself becoming, one way or another, part of the “West”.
3. *Confrontation between Russia and the West in Europe*, which would offer Russia the final chance of realizing its claim to have its own integration and security space on the territory of the former Soviet Union.
4. *A policy of modus vivendi in Europe*. This policy option would require as a precondition that the Western states would not seek to push for the

integration of the Eastern European and South Caucasian states in the network of Euro-Atlantic institutions (NATO and the EU), but nor would it acknowledge – explicitly or implicitly – that Russia possessed any special rights in the post-Soviet space. In practice, this would essentially be the continuation of Western policy as it was in the 1990s and has been in the current decade – business as usual, in other words, with Western claims on the region being kept at a reasonable level for the foreseeable future. For the current discussion of European security policy, as far as this policy option is concerned, it would be vital to identify areas in which Moscow thinks progress is necessary and the West believes it is possible, such as, for instance, Russia-NATO co-operation on theatre missile defence, or combating the production of narcotics in Afghanistan and their export.

Policy Options

1. It seems reasonable to assume that the West would not consider a *status quo* solution in Moscow's sense to be possible (defining zones of influence would not be acceptable). Yet signals from the West could give Moscow the impression that this rejection is ambivalent and there is room for a deal.

In the pluralist West, there are politicians who would not want to exclude the possibility of a deal out of hand. They are more than willing to talk about granting Moscow its own integration and security space for historical and other considerations. In return, they would expect Moscow to guarantee energy deliveries to Europe for the long term and become a co-operative or at least more co-operative partner in dealing with security problems worldwide – from North Korea via Afghanistan and Iran to the Middle East.

That would be the point of a strategic partnership with Russia.

A number of practical decisions made by the West could indeed be understood (or misunderstood) in Moscow as indicating that the status quo is negotiable and needs, above all, to be defined more accurately.

These kinds of problems of understanding and communication characterize the following current and potential decisions:

- The almost immediate return on the part of the West to political business as usual with Russia following the brief suspension of discussions on a new Russia-EU Treaty, the meetings of the Russia-NATO Council, and meetings of the G-8 in the autumn of 2008 as a reaction to the war in Georgia.
- The “resetting” of US-Russian relations following the election of Barack Obama as US president, and particularly Washington's willingness not to station elements of a missile defence system in Poland and

the Czech Republic and not to seek NATO membership for Ukraine and Georgia.

- The possibility of recognition for the governments of Abkhazia and South Ossetia – if not in international law then at least de facto.
- The continuation of the low-profile policy or even the reduction of OSCE activities in post-Soviet space.
- A less ambitious implementation of the EU's Eastern Partnership policy, which it introduced in 2009, and which seeks the increasing convergence of the states of Eastern Europe and the South Caucasus with the EU *acquis*. Closer co-ordination of Action Plans within the scope of the Eastern Partnership with Moscow.
- Maintaining the European Union's low profile in the management of conflicts in Moldova and between Azerbaijan and Armenia, but also in the settlement of Georgia's conflicts with Abkhazia and South Ossetia.
- An agreement over security co-operation between NATO and the CSTO, even if the only object of this was co-operation on the stabilization of Afghanistan.

It would perhaps not be necessary to seek at the same time explicitly to institutionalize trilateral co-operation between Russia, the USA, and the European Union. Formal and informal, direct and indirect trilateral co-operation already functions when channeled through the United Nations, G8, contact groups and similar informal bodies (e.g. the Quartet on the Middle East or the 5+1 Group, which, with the addition of China, is dealing with Iran's nuclear dossier).

The problem here is less the institutionalization than the creation of a common position. The failure of the Contact Group to negotiate the status of Kosovo in 2007, which has effectively excluded Russia from the process to co-ordinate policy on Kosovo since 2008, and the Sword of Damocles that is Moscow's UN Security Council veto suggest that the problems of trilateral co-operation are substantial more than institutional.

Otherwise, the flexible and informal form of the ad hoc contact groups would perhaps correspond more closely to Moscow's desire to gain a voice in Western decision-making than does the creation of a European security council within or outside the OSCE. Not only do they not require Moscow to surrender sovereignty, but the composition of the contact groups is also flexible and allows the inclusion of "non-Western" actors such as China, thus more closely resembling Moscow's vision of a multipolar world than does merely expanding co-operation with the West.

2. *The integration of Russia in the existing Euro-Atlantic security order* also appears at first glance to be a rather unrealistic policy option. In the long term, however, it cannot be ruled out.

This policy option requires at a minimum Moscow's interest and the willingness of the Western states to see Russia's integration as an equal not

only in a common economic framework but also in the Western security system. The institutionally simplest, but politically most challenging solution would be for Russia to join NATO and, ultimately, the European Union.

The Russian political class is currently not ready for a solution of this kind. They stress Russia's sovereignty and (illusory) "self-sufficiency" and reject the very notion of convergence. Yet the majority of the political class in the West is also far from being willing to embrace this option. The Medvedev proposal, however, has boosted discussion of this possibility.

In an article from early 2009, for instance, Germany's former foreign minister, Joschka Fischer, did not wish to explicitly exclude this option.¹³ Poland's foreign minister, Radosław Sikorski, also showed that he was open to a discussion of this kind in March 2009. Nonetheless, the option of Russian accession will not be a policy option in the medium-to-long term.

Since the mid-90s, however, there have been attempts to take a different path – that of the institutionalization of Russia's partnerships with NATO and the European Union by means of treaties. This was the goal of the NATO-Russia Permanent Joint Council of 1997 and then the Russia-NATO Council of 2002, which aimed to promote consultations, joint decision-making, and concerted action. Neither of them was up to the task. Practical co-operation between Russia and NATO remained restricted to areas that, while important, were less relevant than others to the two sides and could thus easily become the victims of political disagreements over the 1999 Kosovo War and the 2008 Russia-Georgia War.

The partnership between Russia and the EU in the field of external security remains rudimentary and symbolic. The status of the partners, legal foundations, and mechanisms for joint crisis resolution remain undefined.

One path that has not yet been looked at – or not closely enough – is that of the gradual development of a quasi-alliance based on the practical experience of international co-operation on security matters. In order to ensure that all partners develop a strong interest in co-operation of this kind, any such initiative will need to focus on protecting those of their interests that are truly important to them (though not vital). So far, however, there are only a small number of relevant initiatives of this kind:

First, the essential interests of Russia and the West in the attempt to stabilize the situation in Afghanistan and establish effective and sustainable state institutions appear to be effectively identical.

Russia and the West also share an interest in preventing Iran from developing nuclear weapons, even if they continue to disagree about how this should be achieved.

13 Cf. Joschka Fischer, *Russland in die Nato. Europa und Amerika müssen endlich eine Antwort auf die Herausforderung durch Moskau finden* [Russia Should Join NATO. Europe and America Finally Have to Find an Answer to the Challenge from Moscow], in: *Süddeutsche Zeitung*, 12 January 2009.

Moscow has also continuously expressed its interest in closer co-operation with the US and the European Union in suppressing not only the illicit trafficking of opium, but also its production in Afghanistan.

Repeated statements by Moscow suggest that it is less concerned to oppose US plans to set up a missile defence system in Europe than to develop a joint project in the area of missile defence. This interest deserves at least to be tested seriously.

3. For a range of reasons, the author does not consider *the restoration of confrontation* between Russia and the West in Europe to be a credible policy option, although the political rhetoric is constantly evoking the ghost of confrontation. It certainly represents the worst option for Russia, which will not be able to muster the resources necessary for an arms race with the West for the foreseeable future. A policy of confrontation is unlikely to put Moscow in a position from which it could revise the existing Euro-Atlantic security order (reversing NATO's eastward enlargement). At the same time, it would undermine all hope of consolidating the status quo, and particularly of gaining the right to have a say in Euro-Atlantic Security organizations.

4. Maintaining a *modus vivendi* would in any case imply that there are some questions concerning the final form of Euro-Atlantic security that will not be solved by means of either final decisions or decisive *faits accomplis* for the foreseeable future. This applies to the question of Europe's ultimate borders (the external borders of the EU and NATO) and for the decision on the appropriate institutionalization of relations between Russia and both institutions. At the same time, however, none of the policy options that are fundamentally available would be officially ruled out.

Several practical decisions in the coming year would be affected by the ambivalence of the current situation and could be interpreted by various actors as symptoms of either a potential consolidation of the status quo, or of the development of a quasi-alliance between Russia and the West, or else merely as the continuation of the *modus vivendi*.

For instance, the suspension of NATO's eastern enlargement at the same time as the announcement of an open-door policy can be understood (or misunderstood) by some as a step to fortify the status quo. Others may, however, see it as indicating a lack of willingness to bring about *faits accomplis* in the absence of a political solution to the problem with Russia.

A less ambitious policy of Eastern Partnership on the part of the European Union may be seen by some as a lack of willingness of the EU's part to explicitly challenge the political status quo in Russia's backyard. Others, however, may consider it as a sign of hope that Russia will one day be integrated in the Euro-Atlantic security and economic order, which would defuse the controversy around the Eastern Partnership.

Closer co-operation between Russia, the USA, and NATO on the stabilization of Afghanistan, and between the USA and the EU on dealing with Iran's nuclear dossier and managing the Middle East conflict can be inter-

puted by some as a step in the direction of a quasi-alliance between them, but by others as a component of a broader deal aimed at consolidating the status quo in Europe.

Conclusions

The above analysis suggests that Russia and the Western states of Europe are parting ways on a vital point, namely on the question of the consolidation of the status quo in Europe.

If this is the solution that best represents the Russian political class's current understanding of that country's fundamental interests, most Western states are not ready to go beyond maintaining a *modus vivendi*.

At the same time, neither the status quo nor the *modus vivendi* option can satisfy the states in the post-Soviet space, who would like above all guarantees that they will be integrated in Euro-Atlantic structures – NATO and/or the European Union.

The logic of the *modus vivendi* policy itself cannot create clarity in the foreseeable future regarding the prospects for an “appropriate” role for Russia in the European security order. This policy only postpones the relevant decisions into the indefinite future.

It may be that maintaining an ambivalent uncertainty serves a beneficial purpose if it wins time and thus makes the option of Russia's integration into Euro-Atlantic (“Western”) structures into a genuine possibility – an option that is currently considered unrealistic.

However, this ambivalence contributes little to a comprehensive agreement of the kind Moscow is seeking to bring about by means of the Medvedev proposal. It thus leaves much room for further mutual disappointment and mistrust in relations between Russia and the West.

Postscript

Shortly before the opening of the OSCE Ministerial Council Meeting in Athens, and long after this contribution had been drafted, President Medvedev communicated to his fellow Heads of State or Government in the relevant states (above all the OSCE participating States) and to the leaders of NATO, the EU, the CSTO, the CIS, and the OSCE the promised draft of a European Security Treaty.¹⁴ The draft was published on 29 November.

The draft contains very few of the elements contained in the proposals announced by Russia since 2008. It mentions neither the elaboration of principles for arms control or peacekeeping, nor emerging cross-border security

14 The English translation of the draft Treaty can be accessed on the website of the President of Russia: <http://eng.kremlin.ru/text/docs/2009/11/223072.shtml>.

risks. So too has the idea of the strengthening of principles of inter-state relations relevant for military security been discarded – with the exception of one mention of the inadmissibility of the use of force in the preamble.

Instead, the draft stresses three areas.

First, the principle of the indivisibility and equality of security is underlined, together with that of the inadmissibility of strengthening one's own security at the expense of the security of other parties to the treaty (Articles 1 and 2). In this regard, the parties are called upon to take no steps that will significantly impact the security of other parties, nor to participate in or support any such steps. Hence, they should not allow the use of their territories to prepare an armed attack on another party to the treaty, or for any other measures significantly affecting the security of another party, nor use the territory of another party for such a purpose.

Should a party believe that any legislative, administrative, or organizational measure taken by another party might affect its security, it may request relevant information (Article 3).

Second, the draft proposes a *consultation mechanism to settle any disputes* that arise concerning the interpretation of the principle of indivisible security in evaluating the measures in question. Should the consultations fail to resolve the dispute, a *Conference of the Parties* shall make a ruling on the matter, deciding by consensus (Articles 5 and 6).

Third, in a case of armed attack or the threat of such attack on a party to the treaty, an *Extraordinary Conference of the Parties* shall make a ruling on what measure should be taken, deciding by unanimous vote (Articles 7 and 8). The vote of the party carrying out the aggression shall not be counted.

The mechanism, however, should not affect the rights of parties to the treaty to individual or collective self-defence under Article 51 of the UN Charter, nor the rights of the UN Security Council.

Do We Need a New European Security Culture? Why the Best of Détente Is Yet to Come

It is almost two decades since the division of Europe into two antagonistic power blocs was consigned to history. However, the debate over a new European security order – one that builds on the experiences of the past and masters the challenges of the future – is ongoing. How has the West conceived of relations between itself and its former Cold War opponent in the post-confrontational era? The signals that Russia received were often unclear, ambiguous, and contradictory. Let us take an example. No longer “us against you”, no longer “you against us” but “all of us together on the same side” – that was said to be the new philosophy of the new NATO. This was the catchy message that then US Secretary of State Madeleine Albright brought to Russia’s President Boris Yeltsin on her first visit in February 1997.¹ The language is reminiscent of the soaring rhetoric from the earliest days of the post-Cold War era, when talk was of an end to enmity, the end of the division of Europe, and equal security in a new age of peace.

All together on the same side? This would eliminate the justification for the continuing existence of a military alliance, one of whose characteristic features is to ascribe members and non-members alike their places on one side or the other. It certainly would not require the expansion of the alliance, the shifting of boundary posts and checkpoints to the east, and the drawing of a new dividing line – thus confirming that one already exists – between insiders and outsiders. Even the first round of NATO enlargement would have been superfluous. Yet it was this newly adopted Western plan that Washington’s emissary sought to make palatable to her hosts in Moscow by means of this formula of a new togetherness.

Under all three Russian presidents – Yeltsin, Putin, and Medvedev – the discomfort at the way Russian concerns were ignored in the reshaping of the European security order has pervaded official statements. Until Vladimir Putin’s sharp change of tone at the Munich Security Conference in February 2007, the general public in the West was almost entirely unaware of this complaint. In the meantime, it has managed to struggle onto the diplomatic agenda. On the table is Dmitri Medvedev’s proposal of a legally binding security treaty, which is intended to lay the foundations of a reformed European security architecture. At their meeting of 28 June 2009, the OSCE foreign ministers agreed to launch a “structured dialogue” among the participating

1 Cf. Steven Erlanger, Moscow Still Negative to NATO, in: *International Herald Tribune*, 22 February 1997, p. 1.

States to determine the content and modalities of this discussion, formalized as the “Corfu Process”.²

What is the substance of the Russian complaints? Are they justified? How can they be addressed? This contribution considers these questions in four stages. An overview of the development of the Russian position in the contemporary security environment in Europe is followed by a look at the two groups of problems that need to be solved most urgently from the Russian point of view: how to deal with new applications for NATO membership, and American plans for the deployment of components of a global missile defence system on the territory of its European allies. The fourth section contains our conclusions. They are based not on their convenience for Western interests or Russia’s political goals, but rather on the need for stability in the field of security in Europe.

Partnership as Domination?

The briefest answer to the question of what changed in Europe in 1989 would be: the Soviet Union. Yet this would be unfair to the democratic nature of the upheavals that took place in Central and South-eastern Europe. Those events, first in Warsaw and Budapest, and then in Berlin, Sofia, Prague, and Bucharest, were initiated not by governments but by the people. That is how they differed from Gorbachev’s perestroika. The end result was the total internal revolutionizing of the belt of former Soviet satellite states. In the history of Europe, not even wars have brought about such dramatic transformations with as much rapidity as the peaceful auto-emancipation of the six countries that fell under Moscow’s control at the end of the Second World War. Nevertheless, it was the change in the attitude of the Soviet Union that determined the moment when a new chapter in international politics was opened. Poland and Hungary’s gradual liberalization represented the first time in the postwar period that such developments had not been met by Soviet countermeasures. Only this made the Hungarian reformers’ decision to reject the role of stooge for those of its allies that were unwilling to embrace reform and grant the refugees from East Germany the right to outward travel a calculable risk. This opened the floodgates, triggering a chain reaction of upheavals in the four remaining Warsaw Pact countries.

The new thinking in Moscow thus acted as a midwife to the birth of the new Europe. By tolerating the regime changes and consequentially accepting the dissolution of the Warsaw Treaty Organization (WTO), the powers that be in the Kremlin gave up their monopoly on governance over a hundred million *de facto* subjects and a million square kilometres of strategic territory that they had tenaciously held on to for decades. No sooner was this com-

2 *Corfu Informal Meeting of OSCE Foreign Ministers on the Future of European Security*, Chair’s Concluding Statement to the Press, 28 June 2009, points 7 and 8.

plete, there followed the next phase in the decline of Soviet power. The Soviet Union itself split into its fifteen constituent republics. The population of the state governed by Moscow thus shrank from 270 to 150 million. It ceased to be the militant colossus that backward-looking commentators continue to like to paint it as. At the founding of the Russian Federation, a sixth of Russians – nearly 25 million people – were living outside the borders of the new state. The number of non-ethnic Russians who became Russian citizens was nearly as high. Wherever armed conflicts have broken out in Europe since the end of the Cold War, nationalism, separatism, and territorial revisionism have been among the primary causes. The collapse of Yugoslavia alone cost 150,000 lives. Compared to that, the Moscow centre of gravity mastered its disintegration process with remarkable prudence.

There was no good reason to retain the image of Moscow as the enemy superpower. The agenda should have been to establish a security order that would give every state the same duties, while excluding none from equal participation. The discrepancy between the grand rhetoric of transformation and the small change it actually produced in reality had blocked the way. A good while after the dawn of the new era, the Eastern European states were all equally willing to enter into new commitments in the name of partnership and co-operation. The offer the West made to them and labelled with these words was at heart an attempt to set in stone the asymmetrical distribution of power of the current historical moment. For all the assurances that a peaceful European future must not exclude Russia, the largest country on the continent in terms of population and territory could not secure an equal place in the system of European security. Moscow failed in its attempts to oppose this development, whether, depending on one's perspective, one labels this the "opening", "enlargement", or "expansion" of NATO. It even failed to gain assurances that NATO would not encroach beyond the former western border of the Soviet Union. Ten years ago, NATO had 16 members. Following the enlargement waves of 1999, 2004, and 2008, it now has 28. Six of them are former Soviet allies, and three used to be constituent republics of the USSR. When asked why the new members were rushing to join a military alliance, their representatives answer that it was for the same reason that the old members remained part of the alliance: concern for their security. Other countries, whose economic power would make them highly welcome in Brussels – Sweden, Finland, Ireland, Austria, and Switzerland – clearly do not share this concern. They have chosen neutrality without fearing for their security.

As a consolation for its acceptance of NATO enlargement, Moscow received a document that was sealed with much ceremony – the NATO-Russia Founding Act of 27 May 1997. This marginally raised Russia's official status above those of other participants in the alliance's partnership programmes. However, the desire to effectively head off potential side effects of NATO enlargement that Russia saw as particularly damaging to its security interests, remained unfulfilled. For instance, while the four-plus-two treaty of Septem-

ber 1990, which affirmed the reunification of Germany in international law, prohibited the permanent stationing of foreign troops and the deployment of nuclear weapons in the Eastern part of Germany, i.e. on the territory of the former German Democratic Republic, further eastwards, NATO forces armed with conventional or nuclear weapons could be stationed on Polish territory with Warsaw's agreement, as Poland is not subject to any restrictions of its military sovereignty. NATO has merely made assurances that it will not make use of its deployment options in the future. This political declaration of intention has no legally binding force and can be revised if NATO's assessment of the situation changes. It establishes neither a Western obligation to adhere to its assurance, nor a Russian right to insist upon its being adhered to.

The distinction in the rules applying to eastern Germany and Poland (together with all the other new members of NATO) symbolizes two things: The decay of Russian power under Yeltsin, and the Western determination to use this to its own advantage. The Western understanding of Russia's role in European security policy can be summed up as: "co-operation yes – codetermination no". With these words, NATO defence ministers explained the intention that had already guided them at the meeting they called in Williamsburg, Virginia, in the autumn of 1995, where they determined the modalities for the military monitoring of the peace agreement for Bosnia and Herzegovina that was to be signed at Dayton a month later.³ After putting up a tenacious struggle, the Russian leadership made do with a contingent of troops in NATO's multinational implementation force. They did not succeed in securing their involvement at the command and control level. Russian soldiers thus operated under NATO command on a peacekeeping mission over the organization of which the Russian government had no influence. Only three years later, during the preparations for the war against Serbia over Kosovo, NATO's need to pursue political co-ordination with Russia had entirely evaporated.

Among the factors conditioning Moscow's foreign policy are the political and social transformation of post-Soviet Russia and the contrasting records of the first two presidents. The restructuring of the economy during the turbulent 1990s, which even Western economists now consider as predatory privatization, proceeded in a fashion that was anything but controlled – not least as a result of the plundering of the state coffers. During Yeltsin's second term of office, the country was heavily indebted and sometimes unable to make repayments. It was no longer possible to service foreign loans and repayment moratoriums were necessary to bridge the gaps. In the eyes of most Russians, Putin put the crumbling house in order again. In Yeltsin's last year in office (1999), inflation was running at 85 per cent, while by Putin's last

3 Cf. Moskau soll an der militärischen Sicherung des Friedens in Bosnien beteiligt werden – jedoch nicht mitentscheiden [Moscow to take part in the military operation to secure the peace in Bosnia – but not to have a say in decision making], in: *Frankfurter Allgemeine Zeitung*, 7 October 1995, p. 2.

year as president (2007), it had fallen to eight per cent. The proportion of Russians living below the poverty line fell from 33 to 14 per cent. Average income increased fivefold. The market value of Russian stocks rose by a factor of twenty. The robust methods used, for instance in the political disempowerment of the oligarchs, failed to impair Putin's popularity at home. Foreign criticism of authoritarianism in his "guided democracy" was countered with references to his consistently high approval ratings among the population, something that the political leadership of no Western democracy enjoyed. When he left office, Russia was free of debt. It has more than half a trillion dollars in foreign currency reserves. It is again attracting an ever increasing number of foreign investors. And it possesses energy reserves that the world is keen to get its hands on.

Should it come as a surprise if domestic consolidation has an effect on foreign policy? It is not as if those who previously held the reins of power in Moscow were in the habit of uncomplainingly accepting Western affronts. NATO's eastward expansion, as a furious Boris Yeltsin put it in 1995, would "fan the flames of war throughout Europe".⁴ No one took him seriously, especially since it would have been unfitting for one so reliant on the intravenous drip of the World Bank and the International Monetary Fund to act up. When you have to hold out your hand, it is hard to make a fist. It took his successor to cast off the role of the powerless supplicant. This accounts in large measure for the change of style with which Russia's representatives raise their – far from original – complaints on this matter today.

The Caucasus War: A Case Study

The place where the sinister sentence on the flames of war was to prove true was the Georgian province of South Ossetia. On 8 August 2008, after a preliminary artillery bombardment, Georgian forces entered South Ossetian territory and took the capital Tskhinvali. They were repulsed by Russian troops. For the first time since the Soviet withdrawal from Afghanistan in 1989, Moscow resorted to the use of military force beyond its own borders. How many times had Western states intervened militarily in conflict theatres during the same period? In the blink of an eye, a "frozen" regional conflict escalated into a major international crisis. A single interpretation became dominant in the Western media, which was largely free of nuance and shades of grey: The Kremlin was in the dock. Little or nothing was reported on the causes and goals of Russia's military presence in South Ossetia. A ceasefire had brought the war between the separatist province and the central Georgian state to an end on 24 June 1992. The agreement, signed by the presidents of

4 Jelzin: Ost-Erweiterung der Nato wird in ganz Europa die Flamme des Krieges entfachen [Yeltsin: NATO's Eastward Expansion Will Fan the Flames of War throughout Europe], in: *Frankfurter Allgemeine Zeitung*, 9 September 1995, p. 1.

Russia and Georgia and worked out in detail in a series of memoranda, in whose framing the OSCE Mission to Georgia was involved, established not only a control commission, on which the OSCE was also represented, but also multinational ceasefire monitoring troops under Russia's overall command. Their task was to ensure that the ceasefire was observed. The mandate situation was the same in the summer of 2008. How would NATO have reacted if Serbian soldiers had attacked Kosovo to make themselves the masters of Pristina once again?

An American observer, very sympathetic to Georgian aspirations, compared the process in the run-up to the war in the Caucasus a "surrealist novel".⁵ He is referring to the problematic decision on Georgia and Ukraine of the Bucharest NATO Summit of 3 April 2008. When the meeting began, the participants were still in disagreement over the Membership Action Plan (MAP) that would prepare the way for these two neighbours of Russia to join NATO, which Moscow vehemently opposed. While Washington called for MAP invitations to be issued immediately, the bulk of Western European governments considered this to be premature. A hastily improvised crisis conclave was convened to try find a way out of this dilemma, and reached a curious conclusion: "We agreed today that these countries will become members of NATO," was the laconic formula used by the declaration,⁶ one that "went far beyond what NATO had ever wanted to do".⁷ Seconded by US Secretary of State Condoleezza Rice, Georgia's President Mikheil Saakashvili gave every impression of being convinced that he had achieved more than he could have hoped for: instead of a conditional offer, a "blank check" promise of accession. This is without precedent in the history of NATO. This irresponsible decision must have inspired the thirst for action of the hardliners in Tbilisi. Did not a quasi-ally also have a moral right to military assistance? Five days after the outbreak of war in the Caucasus, the NATO ambassadors discussed, on Georgia's request, whether to send the NATO Response Force (NRF). As only a minority was in favour, no decision was reached. How close NATO came to a military confrontation with Russia is something future historians will have to work out.

But this was not the end of things. The strongest anti-Russian tones are currently emanating from the Central and Eastern European NATO states. In mid-July 2009, 22 former heads of state and government, ministers, and diplomats announced in an open letter to the Obama administration that they were "deeply disturbed to see the Atlantic alliance stand by" during the war between Russia and Georgia, and asked whether the Western alliance was

5 Cf. Ronald Asmus, Riss zwischen Washington und Berlin [Schism between Berlin and Washington], in: *Frankfurter Allgemeine Zeitung*, 25 April 2008, p. 10.

6 NATO, *Bucharest Summit Declaration – Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Bucharest on 3 April 2008*, Section 23.

7 Asmus, cited above (Note 5).

still willing and able to come to their countries' support in times of crisis.⁸ Seven of the signatories were former presidents, the most prominent being Vaclav Havel and Lech Walesa. In their view, Russia today is "a revisionist power".⁹ It "uses overt and covert means of economic warfare, ranging from energy blockades and politically motivated investments to bribery and media manipulation in order to advance its interests and to challenge the transatlantic orientation of Central and Eastern Europe".¹⁰ The letter, which also had the support of Poland's current President, Lech Kaczyński, called upon the government in Washington to renew its commitment to Europe. Among other things, it proposed:

- to bring about a renaissance of NATO, based on the core function of Article 5, that would put in place the hitherto neglected issue of defence planning for the new members, including provisions to station troops and equipment in the region to be available in case of crisis;
- to return to the old NATO practice where alliance members co-ordinate their position before entering into discussions with Moscow in the NATO-Russia Council;
- to decide on the future of the planned missile defence programme in Poland and the Czech Republic "as allies", i.e. to reject unfounded Russian objections and not to involve Russia too deeply.

In relation to the level of agreement already reached on relations between NATO and Russia, the Open Letter represents an entirely revisionist programme. It calls for the revocation of the format that has been taken by the NATO-Russia Council since May 2002. That was when, to underline "the principle that the security of all states in the Euro-Atlantic community is indivisible" the alliance offered to "work as equal partners" in the future and to give the "qualitatively new relationship" expression by means of consultations "at twenty"¹¹ (instead of as 19 plus 1, or, as the Russians saw it, 19 against 1). Formal preparatory meetings involving all the alliance members were abolished.

The Open Letter also calls for the revision of NATO's declaration of intention that it would not seek a permanent military presence in the new member states.¹² Within the alliance, pressure in this regard has come

8 An Open Letter to the Obama Administration from Central and Eastern Europe, in: *Gazeta Wyborcza*, 15 July 2009, at: http://wyborcza.pl/1,75477,6825987,An_Open_Letter_to_the_Obama_Administration_from_Central.html.

9 Ibid.

10 Ibid.

11 *NATO-Russia Relations: A New Quality. Declaration by Heads of State and Government of NATO Member States and the Russian Federation*, Rome, 28 May 2002, p. 1.

12 "NATO reiterates that in the current and foreseeable security environment, the Alliance will carry out its collective defence and other missions by ensuring the necessary interoperability, integration, and capability for reinforcement rather than by additional permanent

particularly from Poland and the Baltic states. In February 2009, the British defence secretary, John Hutton, sought to take the heat out of the debate by proposing the creation of a “solidarity force” of up to 3,000 troops. NATO needs to consider whether it wishes to transform its eastern border from a legal and political frontier into a militarily fortified front line. As during the Cold War, NATO and Russian troops would again be posted directly opposite and within eyeshot of each other. Just how this would increase security is hard to see. The seeds of a NATO advance presence already exist: On joining NATO, Lithuania, Latvia, and Estonia were integrated into the NATO air defence system. Fighter aircraft supplied on a rotation basis by Western alliance states have since patrolled the Baltic skies, armed, loaded, and provided with orders that ultimately provide for the use of deadly force. Over Lithuania, the flight paths of these aircraft cross the air corridor that connects Russia with its Kaliningrad exclave. The risk of “technical” incidents is obvious. It can also be questioned whether, since joining NATO, the Baltic states require air defence that they apparently did not need before 2004.

Missile Defence: A Case Study

Finally, the authors of the Open Letter also take a stance on missile defence plans that contradicts prior NATO decisions. On this point, the Western voluntary commitment is formulated in very clear terms. The NATO-Russia Founding Act states that “the member States of NATO reiterate that they have no intention, no plan and no reason to deploy nuclear weapons on the territory of new members, nor any need to change any aspect of NATO’s nuclear disposition or nuclear policy – and do not foresee any future need to do so.”¹³ The missiles the US government under George W. Bush wanted to deploy in Poland were not tipped with nuclear warheads but carried conventional payloads. Thus they would not have affected the ban on deployment. However, they would have fundamentally altered both nuclear policy and nuclear disposition, i.e. the resources needed to implement a changed nuclear policy.

Washington has always denied that the expansion of American missile defence to Europe is a threat to Russia’s security. This view is based on two arguments. One is to stress the modest scale of the planned European site. The US-Polish negotiations concerned a single silo field for up to ten interceptor missiles. The size restriction was intended to underline the plan’s political intentions. The fact that the proposed system is entirely unsuited to counter a major offensive with weapons of mass destruction of the kind that could only be launched by one of the major nuclear powers seemed to sup-

stationing of substantial combat forces.” *Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation*, Paris, 27 May 1997, Section IV.

13 Ibid.

port the declared goal of defending against attacks involving a limited number of missiles from countries with a less developed carrier capacity, i.e. from so-called rogue states. Experts estimate that between 100 and 150 anti-ballistic missiles would be necessary to reduce Russia's retaliatory capability. To what extent may that argument dispel Russian concerns? While the programme targeted a risk that is believed to be low, it was nonetheless designed to provide blanket coverage, i.e. to protect the entire territory of the USA. The logic of this goal is to increase one's own defensive capabilities as those of one's potential opponents grow. Forecasts of the threats that suspect regimes may pose with ballistic missiles have so far proved greatly exaggerated. Yet since it already seemed advisable yesterday to American policy makers to deploy missiles that did not yet function properly to counter rockets that do not exist, it is hard to foresee what conclusions they may draw tomorrow. If an increase in the number of missiles stationed is ruled out in the immediate future, this still doesn't answer the question of what will happen after that. Arms programmes in which billions are invested tend to grow. Where there are ten missiles at first, space will be found for hundreds. And the strategic role of a technology is never given but is always subject to political decision-making.

This is where the second argument that was meant to rebut Moscow's reservations at the plans to deploy on Polish and Czech territory came in: From the planned positions, defence against Russian missiles is claimed to be physically impossible. Nor are there many experts who dispute this assumption. US critics of the project such as Theodore A. Postol from the Massachusetts Institute of Technology argue, however, that this was only true as long as the technical capabilities of the components that were to be installed were as limited in fact as in the descriptions provided by the Missile Defense Agency (MDA). If they are changed, the radius of effectiveness of the system also changes, with the consequence that several hundred missiles could be located and destroyed simultaneously.¹⁴ Alongside combating terrorism and the non-proliferation of weapons of mass destruction, missile defence also belongs to the agreed agenda of the NATO-Russia Council. The potential for co-operation in this area has so far been underexploited. Moscow has proposed using the early warning radars in Qabala in Azerbaijan and Armavir in Russia. As a consequence of the curvature of the earth, these sites would not be capable of detecting missiles fired from Russian silos. Washington has not responded to this offer.

Already in the first year of the Bush administration, the US Department of Defense defined the four overarching goals of its new missile defence

14 Cf. George N. Lewis/Theodore A. Postol, European Missile Defense: The Technological Base of Russian Concerns, in: *Arms Control Today*, October 2007, p. 14.

policy, and these were regularly reiterated by representatives of the administration.¹⁵ Accordingly, the aim of missile defence is to:

- assure allies that missiles cannot be used to blackmail the US;
- dissuade potential enemies from investing in missile technologies;
- deter missile attacks by reducing the likelihood of success; and
- defeat missile attacks in the event that deterrence fails.

Who is the potential adversary, the aggressor who may use missiles to attack the USA? There is no reference to “rogue states”. The message is kept general enough to be applicable to no particular addressee, and therefore to apply to any that has the ability to deploy missile technologies. The explosive element in this list of goals is the allusion to the options of reducing and defeating. The strategic balance of deterrence, both between the US and the Soviet Union and later between the USA and Russia, rested on mutual second-strike capability (deterrence by punishment). It was expressly not based on the mutual ability to defend against a nuclear attack (deterrence by denial). The missile defence doctrine of the Bush administration reinterpreted the classical deterrence principle in such a way that it must have been hard for Moscow not to see the creation of a missile defence shield intended to protect the entire territory of the USA as a measure aimed against Russia.

To all appearances, Moscow’s brusque rejection of America’s plans was no fleeting propaganda manoeuvre and cannot be assuaged by reiterations of former declarations of intent. It is up to the Russian leadership itself to decide whether it will enter into the arms race that it predicted would be unavoidable. In the US missile defence programme as conceived by the Bush administration, it could certainly find reason enough to do so. As it stands, the programme states no definite goals, but is designed for continual expansion. It need not stop with the stationing of a small number of interceptor rockets in Poland and a radar station in the Czech Republic. If, in the long term, the USA intends to barricade itself behind a dense protective shield in order to negate the effectiveness of Russian intercontinental ballistic missiles as a strategic deterrent, passive toleration would not be Moscow’s only option. Its reaction need not even be a defensive programme costing billions. The less expensive alternative would be to modernize and increase the number of existing offensive weapons with the aim of neutralizing the US missile defence system through sheer force of numbers. The main losers in this would be the Europeans. If no agreement is reached in the US-Russian missile defence dispute, we are likely to see a further erosion of regional arms-control regimes (CFE, INF, Open Skies) that have long been considered the cornerstones of security stability in Europe.

15 Here paraphrased by Peter C.W. Flory, in: *Testimony of Peter C.W. Flory, Assistant Secretary of Defense for International Security Policy, Before the Senate Armed Services Committee, Strategic Forces Subcommittee*, 4 April 2006.

On 17 September 2009, President Obama announced that he was reversing his predecessor's plans for the deployment of missile defence components in Poland and the Czech Republic. He explained this with reference to new insights regarding the state of Iranian missile programmes. While the Islamic Republic was making progress in the development of short-range missiles, work on medium- and long-range ballistic delivery systems was not proceeding as rapidly as had been feared. Obama explained that the current danger from short-range weapons could be met effectively and economically by means of existing sea-launched interceptor missiles. There was therefore no need to have recourse to the planned deployment sites in the two Central-Eastern European countries. Without question, Obama's decision removed a good deal of heat from the missile defence controversy. However, there can still be no talk of a political reconciliation. Russian government representatives complain that they have been left in the dark as to whether they should consider the decisions of the Bush administration to have been cancelled or merely put on ice. Nor have they been given sufficient details of the new American missile defence plans. All that seems certain is that the Obama administration is not considering a return to the comprehensive Anti-Ballistic Missile (ABM) Treaty regime of 1972, which forbade the deployment of ABM launchers, interceptor missiles, and radars for country-wide protection, and from which the US withdrew in 2001.

Where Now for European Security?

A new security architecture for Europe? With all due respect, the opportunity has been squandered. Certainly, of the security institutions in existence at the end of the Cold War, it was the CSCE that came closest to having a pan-European role. All the states of the region belong to it. It does not discriminate against anyone, and all the powers responsible for peace and security in Europe have signed up to its rules, standards, and policies. Although, like NATO and the Warsaw Treaty Organization, it was also a product of the Cold War, it was the forum that brought both camps in that conflict together rather than setting them against each other. It stands for a co-operative approach to security problems and embodies the culture of security dialogue across the borders of nation states and alliances. Although the CSCE (since 1995 the OSCE) continued to perform exemplary small-scale work, it had never had anything to do with the "grand politics" of European security. It was told it was too weak for that. But this weakness is not congenital, but rather the consequence of the political decision, taken in the aftermath of the historical break of 1989/90, not to grant it the leading role in a new European security architecture nor to furnish it with the necessary powers and instruments to perform such a task. In the summer of 1991, with the outbreak of the civil war in Yugoslavia, the pan-European system capitulated in the face

of its first real test. It left crisis management to the European Community under the gentle auspices of the United Nations. The leading role was then gradually taken over by NATO. "At the CSCE Summit in Budapest in December 1994, the Western representatives left their Russian equivalents in no doubt that NATO would be the foundation of the new European security architecture and not the CSCE/OSCE, in which Russia is an equal participant."¹⁶ This is what happened and how things have remained.

It would be unhistorical to attempt to undo this wrong turn. There is no reset button that can turn the calendar back twenty years. The static concept of a "new security architecture" implies the reconstruction of a building from the foundations. That is not realistic. NATO will neither dissolve nor will it release its recently acquired members to join a different security order. And which could they join? What is needed is more a change of political perspective, expressed in terms of shifts in objectives, criteria, and patterns of behaviour. This is only appropriate in a field as sensitive as security policy. The Western world, from Washington via Paris and London to Bonn, understood this a good deal better four decades ago. During the period of détente, they transformed a confrontational style of pursuing their conflict into a co-operative one. A policy is confrontational when one side makes use of the instruments of power it possesses unilaterally to achieve its goals against the interests of its opponent. Co-operative conflict policy seeks to achieve its goals by means of reconciling interests, compromise, and agreement. Back then, all the participants benefited from the increase in security gained as a result of threat reduction and the relief of tension. At its heart, détente was security policy or, to put it another way, a more productive form of security culture. Why should something that paid off in the age of system conflict bear no fruit today, under far better conditions?

In a system of states whose members do not (or no longer) see each other as enemies, the juxtaposition of equal security for all and privileged security with the protection of an alliance and the solidarity clause for some creates an anachronism. Alliances of collective self-defence require an environment that supports the existence of alliances, and that includes the existence of military opponent. As long as NATO continues to exist, there will be an "inside" and an "outside", even if the border between them may shift. If practically every state may join at some point in time, with just a single exception, the outsider will have the role of opponent imposed upon him whatever he does or does not do. This systemic defect cannot be removed; it can at best be mitigated. Mitigation can be achieved by stopping NATO's expansion, its ongoing advance towards Russia's borders, especially since the only states left that aspire to join have a tendency to play with fire. What is uncontroversial is this: Every country has the right to choose whether to belong to a military alliance or not. This is a principle to which Russia has also given

16 Johannes Varwick, *Die NATO*, Munich 2008, p. 107 (authors' translation).

its assent many times. It is, however, up to the members to examine whether a given applicant promotes the principles of the alliance and contributes to common security. This is demanded by Article 10 of the North Atlantic Treaty, which also states that the decision must be unanimous. If the vote on the readiness for membership of a candidate and the security value of their membership are negative, the application is to be rejected. The enlargement-sceptical NATO countries overlooked this in Bucharest and felt the negative effects immediately. The government of Georgia failed to prove that it deserved the seal of approval as a responsible ally-to-be.

In a weaker form, this verdict can also be passed upon the other candidate country, Ukraine. The gas crises in the winters of 2006 and 2009, the second of which also led to lasting power cuts in several European countries, were triggered by disagreements between Russia and Ukraine over prices and payment schedules. Just as in the Georgian war, those looking for the guilty party barely bothered to look beyond Moscow. This verdict ignores an essential fact. As everybody knows, the USSR and the Comecon common market belong to the past, their former members having left them of their own free will. Moscow no longer has a duty of care. Like internal markets, foreign trade is now also governed by free market principles. Written under Western inspiration, the screenplays of system transformation proclaim it to be so. What possible reason could Russia have to spend its own money on subsidizing the energy it exports to its neighbours? If this is made into a condition for the guarantee of a smooth transit process, it amounts to obstructive behaviour on the part of the transit country. Russia is the source of some 40 per cent of European gas imports, and 80 per cent of them pass through Ukrainian territory. All three – exporter, transporter, importer – are essentially in the same position. They depend upon their business processes taking place without complications as a matter of material self interest. At the same time, they all possess the means of exerting political pressure with which they can damage the other participants. It is the classic constellation that demonstrates the precept any rational politics must obey: It takes a co-operative attitude on the part of all concerned to enable both optimization and the fair distribution of benefits. And if the fashionable concept of energy security is taken at its word, these benefits are even matters of security policy.

The time is over in which the unipolar world view of the leading Western power could enforce tight constraints on the actions of its partners and allies. In many capitals, including some in Europe, there was a positive yearning to see the occupant of the White House change. Barack Obama has assumed office with a very different foreign policy programme. He seeks to gain trust for his country by forswearing the paternalism that his predecessor saw as his self-evident right. At his first official engagement in Moscow, Obama underlined this change in the US viewpoint: “In 2009, a great power does not show strength by dominating or demonizing other countries. The days when empires could treat sovereign states as pieces on a chess board are

over. As I said in Cairo, given our interdependence, any world order that tries to elevate one nation or one group of people over another will inevitably fail. The pursuit of power is no longer a zero-sum game – progress must be shared.”¹⁷ What does this mean for a European security culture that is conducive to peace?

The first consequence relates to the way in which security-relevant conflicts are dealt with. The codices to govern this do not need to be invented; they have existed for a long time. Unfortunately, there are no simple operating instructions that can provide contradiction-free answers to every question that arises. The famous Helsinki Decalogue on peaceful relations between states in Europe,¹⁸ for example, indicates two – rather contradictory – means of solving an urgent problem. On the one hand, every state has the right to political independence and territorial integrity (Principle IV). On the other, the Decalogue demands observance of the equality of peoples and their right to self-determination (Principle VIII). The tension between these two foundational principles is obvious. By seceding from the state it is a part of, a population group necessarily infringes the latter’s territorial integrity. Legal casuistry can mitigate the conflict of norms, but it cannot resolve it. What is to be done? It is necessary to apply a third principle: the principle of peaceful settlement of disputes (Principle V). The right to self-determination is genuine, but it is subordinate to the commitment to refrain from the use of force (Principle II). Anyone seeking to draw new borders and found new states is required to choose the path of political agreement. The reunification of Germany and the dissolution of the Soviet Union came about this way; the break-up of Yugoslavia and the cases of territorial secession in the South Caucasus did not. The most prominent secession conflicts in Europe at the moment concern Kosovo on the one hand, Abkhazia and South Ossetia on the other. In every case, both the direct participants in the conflict and the external mediators can be accused of a lack of willingness to compromise on a negotiated settlement that is acceptable to all parties. Even worse: Territorial integrity and self-determination have atrophied to become mere ciphers to be wielded interchangeably according to case and power position to disguise political partisanship and even to justify the use of violence. When it comes to the culture of security, there is still a lot to learn.

The second consequence relates to military instruments for ensuring security. By appealing for a world free of nuclear weapons, the American president has given an apparently revolutionary signal. Hot on the heels of this came a specific voluntary commitment: “To put an end to Cold War

17 *Obama’s Speech in Moscow. President addresses New Economic School graduation*, 7 July 2009, available online at: <http://www.america.gov/st/texttrans-english/2009/July/20090707062839abretnuh3.549922e-02.html&distid=ucs#ixzz0T61Xl526>.

18 Cf. Final Act of Helsinki, 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: Section 1a) Declaration on Principles guiding relations between participating States, pp. 143ff.

thinking, we will reduce the role of nuclear weapons in our national security strategy, and urge others to do the same.”¹⁹ This is less about setting distant goals than determining the direction of current policy. After a decade of unrestrained rearmament and ever more swollen military budgets around the world, the opportunity to return disarmament and arms control to the international agenda has grown. “Serious endeavors by the United States and Russia toward a nuclear-weapons-free world would make it easier to reach an agreement on adequate behavior with all other nuclear-weapon states, regardless whether they are permanent members of the UN Security Council. A spirit of cooperation could spread from the Middle East via Iran to East Asia.”²⁰

The fact that the spirit of co-operation is also again needed urgently on the continent of Europe itself has barely affected public consciousness. “If you deploy your SS-20s, we will bring our Pershings into position” was the motto of the 1980s arms race. This confrontational spirit has returned almost unnoticed, only now the missiles have the names Patriot and Iskander. The incessant turning of the spiral of rearmament already failed to increase security in the Europe of the Cold War blocs, and the revival of old thought experiments about hermetic missile defence or the ill-conceived concept of a new task force for European conflict scenarios will be no more successful. The more heavily security relations are burdened by mutual distrust, the worse are the consequences of the failure of agreed arms control measures as a stabilizing force. The Treaty on Conventional Armed Forces in Europe (CFE), once the epitome of transparency, verification, and military confidence-building, has been put on ice. The regular exchange of information and mutual site inspections – more than 5,000 since 1992 – have ceased. It will take a huge effort to repair the damage caused “by unilateral policy approaches, individual interests, and the drawing of linkages to at least partially irrelevant issues”.²¹ Given that it is, in the first instance, their interests that are on the line, it is Europeans that should assume responsibility for this task. That one’s own security encompasses the security of one’s opponent was once a matter of consensus in the alliance. Hard times would be ahead if this were to collapse.

19 Remarks by President Barack Obama, Hradcany Square, Prague, Czech Republic, 5 April 2009, available online at: http://www.whitehouse.gov/the_press_office/Remarks-By-President-Barack-Obama-In-Prague-As-Delivered.

20 Helmut Schmidt/Richard von Weizsäcker/Egon Bahr/Hans-Dietrich Genscher, Toward a Nuclear-Free World, in: *International Herald Tribune*, 9 January 2009.

21 Wolfgang Zellner/Hans-Joachim Schmidt/Götz Neuneck, Editor’s Preface, in: Zellner et al. (eds), *The Future of Conventional Arms Control in Europe*, Baden-Baden 2009, p. 15.

Redesigning Europe? The Pitfalls and the Promises of the European Security Treaty Initiative

Since President Dmitry Medvedev's assumption of office in the spring of 2008, two major documents central to understanding Russian national security and European policy aspirations have been published.¹ Both outline Russia's grand design (and its internal inconsistencies) in some detail. From the very beginning of the Medvedev presidency, a specific and determined desire to redefine the organizing principles, logic, and architecture of European security has gathered momentum. This is embodied, above all, in Russia's proposed Treaty on European Security. Russia's intense dissatisfaction with the existing European security order is not in question, nor indeed is it unprecedented. But what is unclear is whether the circumstances and manner in which this dissatisfaction has been expressed give grounds for other actors (states and international organizations such as NATO, the EU, OSCE, and CSTO) to respond seriously to this proposed root-and-branch revision of the existing order.

This contribution provides an overview and assessment of the so-called "Medvedev plan". It describes Russia's stated rationale for the proposal and recounts how Russia has utilized conferences and meetings to give speeches aimed at publicizing and propagating its core content. It also provides an overview of the reactions and assessments of states and analysts to this proposal, many of which seek to uncover a hidden agenda and purpose to the treaty proposal.² The machinations of competing state bureaucracies in Rus-

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- 1 *Kontseptsiya vneshnei politiki Rossiiskoi Federatsii* [The Foreign Policy Strategy of the Russian Federation]. Approved by the President of the Russian Federation, D.A. Medvedev, on 12 July 2008, available online at: http://www.mid.ru/brp_4.nsf/sps/357798BF3C69E1EAC3257487004AB10C; and *Strategiya natsionalnoi bezopasnosti Rossiiskoi Federatsii do 2020 goda* [The National Security Strategy of the Russian Federation until 2020]. Approved by a decree by the President of the Russian Federation on 12 May 2009. No. 537, available online at: <http://www.scrf.gov.ru/documents/99.html>.
 - 2 Among the many recent studies that examine this proposal, see in particular: Manuel de la Cámara, *European Security and EU-Russian Relations*. Real Instituto Elcano ARI 76/2009, 14 May 2009, at: http://www.realinstitutoelcano.org/wps/portal/rielcano_eng/Content?WCM_GLOBAL_CONTEXT=/Elcano_in/Zonas_in/Europe/ARI76-2009; Sandra Dias Fernandes, *Time to reassess the European security architecture? The NATO-EU-Russia Security Triangle*, EPIN Working Paper 22, 31 March 2009, at: <http://aei.pitt.edu/10744/01/1820.pdf>; *Euro-Atlantic Security: One vision, Three Paths*, East West Institute, June 2009, at: <http://www.ewi.info/euro-atlantic-security>; Yuri Fedorov, *Medvedev's Initiative: A Trap for Europe*, Association for International Affairs, Research Paper, Prague 2/2009, at: <http://www.amo.cz/publications/medvedevs-initiative-a-trap-for-europe-.html?lang=en>; Toomas Hendrik Ilves, *European Security Architecture and Eastern Europe*, in: *Hampton Roads International Security Quarterly*, 2-3/2009, pp 70-73; Bobo Lo, *Medvedev and the new European security architecture*, Centre for European Reform Policy Brief, July 2009, at: http://www.cer.org.uk/pdf/pbrief_medvedev_july09.pdf; Andrey S. Makarychev, *Russia and its "New Security Architecture" in*

sia – the realm of the Kremlinologists – are dealt with only briefly in this chapter, as the key determining dynamic lies in the unity at the top of the leadership chain (the coherence of the Putin-Medvedev nexus) and its determination to promote the Medvedev plan as major Russian policy project.

The Evolution of an Idea: From Selective Ambiguity to Ambiguous Selectiveness

Russia's European policy under President Medvedev has been identified with the plan to conclude a Treaty on European Security. In the eleven months between May 2008 and April 2009, President Medvedev delivered three speeches to foreign audiences whose primary purpose was to highlight the treaty proposal. Notably, however, details of the initiative's content did not increase from one speech to the next. It may be that reactions were too diverse to allow Moscow to move forward and consolidate its intentions. Alternatively, the Russian leadership may have launched the proposal in the form of a bare-bones concept to gauge how the world at large, and above all the major players of the Euro-Atlantic area, would react to it. Conditional and cautious acceptance of the need for the Treaty and perhaps even agreement on some of its proposed provisions would then provide a suitable negotiating framework that Russia could drive forward. Whether Moscow had a master plan from the outset and knew what it wanted to achieve would be difficult to ascertain. But it was probably cognizant of the goals it wanted to pursue and had an idea of what was achievable and what was not.

The timing of this initiative seems to have been chosen with care. First, it was announced hot on the heels of President Medvedev's assumption of office. This served a dual purpose – the new proposal could be identified with a new president, and could graphically demonstrate a break with the foreign policy of his predecessor. Second, the US – which Russia regards as its most important strategic counterpart – was preparing for presidential elections widely expected to herald a changing of the guard in Washington. As a result, leading think-tanks throughout the Euro-Atlantic space were busily elaborating new models of international relations for a post-Bush order, and Moscow could tap into that process. Third, transatlantic relations were in flux. The main players in Euro-Atlantic security were gradually overcoming the divide caused by Iraq, and a process of transatlantic realignment around shared interests and values could only be accelerated by the impetus a new adminis-

Europe: A Critical Examination of the Concept, CEPS Working Document No. 310, 5 February 2009, at: <http://aei.pitt.edu/10760/01/1790.pdf>; Andrew Monaghan, *Russia's "Big Idea": "Helsinki 2" and the reform of Euro-Atlantic Security*, NATO Research Report, NATO Research Division – NATO Defence College Rome, 3 December 2008, at: <http://www.ndc.nato.int/research/series.php?icode=3>; and Sergey Karaganov, *The Magic Numbers of 2009*, in: *Russia in Global Affairs*, 2/2009, at: <http://eng.globalaffairs.ru/printver/1279.html>.

tration in Washington would inject. A fundamentally new expression of Russia's dissatisfaction with European security had a chance to influence and shape perceptions and policies in this fluid context. Fourth, Russia could argue that the Georgian crisis of August 2008 only served to underline the proposal's central contention: The crisis itself demonstrated the structural limitations of the existing European security order.

The initial announcement was made in Berlin during President Medvedev's first visit to Germany and contained two elements: the need to convene a general European summit in which all European states would participate as individual countries, putting aside allegiances to outmoded blocs or other groups, and which would begin the process of drafting an agreement; and the creation of "a regional pact based, naturally, on the principles of the UN Charter, which clearly defines the role of force as factor in relations within the Euro-Atlantic community".³ President Medvedev stated that a legally binding treaty – the end goal of this process – would not only encompass states, but also that "organisations currently working in the Euro-Atlantic area could become parties".⁴ From further comments that President Medvedev made on the same occasion, it was clear that Russia was – not surprisingly – strongly opposed to the role NATO plays in Euro-Atlantic security.

At this early stage, much remained uncertain about the Russian proposal. For example, it was not clear what the role would be of the summit convened to launch the process. Such events normally represent the culmination of a process, and hence require significant advance preparation and diplomatic negotiations, as evidenced by the 1973-1975 process that led to the Helsinki Summit and the Final Act. In addition, the tacit aim of the summit (and therefore of the process to be launched by the summit itself) appeared to be the artificial abolition of existing allegiances and alliances, which, to Russia's consternation, embodied an exclusionary, status-lowering, and marginalizing asymmetry that arose at the end of the Cold War, when the institutions of the East (which the Soviet Union dominated) were abolished and those of the West adapted to changed conditions. This in turn is explained by historical and organic development processes during the Cold War.⁵ Furthermore, this state-centric approach appeared to undercut the notion that the treaty would also incorporate intergovernmental organizations active in Europe as signatory parties. This apparent contradiction may stem

3 President of Russia Dmitry Medvedev, *Speech at Meeting with German Political, Parliamentary and Civic Leaders*, Berlin, 5 June 2008, available online at: http://www.president.kremlin.ru/eng/speeches/2008/06/05/2203_type82912type82914type84779_202153.shtml.

4 Ibid.

5 The most pointed characterization of the difference was offered by John Lewis Gaddis when he wrote that the transatlantic connection that developed between the US and Western Europe was "empire by invitation" whereas the allegiance that developed in the East was "alliance by imposition". See: John Lewis Gaddis, *We Now Know*, New York 1997, pp. 26-53.

from Russia's desire to raise the status of and gain international legitimacy for Russian-dominated organizations operating in the post-Soviet space that have played a lesser role in European affairs, such as the Commonwealth of Independent States (CIS) and the Collective Security Treaty Organization (CSTO). If multilateralism is regarded as a positive development in Europe, the same logic should apply to the post-Soviet space. Lastly, it was unclear what the future role of the only pan-European intergovernmental institution, the OSCE, should be. President Medvedev did not clarify whether Russia supported its continued existence or whether it would be swept away by his *tabula rasa* approach.

Before the next phase in the evolution of President Medvedev's concept, the August 2008 war between Georgia and Russia illustrated that the post-Cold War European security architecture was, as Russia contended, unable or unwilling to prevent or manage conflict in Europe. Even though there has been no reliable independent assessment of liability for the war, it is clear that the two parties share responsibility for not having come to a peaceful resolution of their long-lasting conflict. Despite the fact that war is an unacceptable and illegal method of conflict resolution, the events in Georgia shattered a 15-year stalemate and resulted in a new status quo that may be unwelcome for many but will contribute to stability in the long run. In addition, some elements of the European security architecture contributed effectively to the settlement of the conflict – namely the EU, as represented by its presidency. However, the war also demonstrated that the OSCE, due to its foundational principle of consensus-based decision-making, was ineffective – as any intergovernmental organization would be in such circumstances. There is a classic trade-off here: Decision-making based on consensus is democratic, but the price of this is reduced effectiveness. When the parties involved in the decision-making process disagree, they have no choice but to seek compromise – a process that may lead to an endless stalemate. Every intergovernmental institution based on the consensus principle would inevitably face this dilemma, and replacing one organization with another would only displace rather than eliminate it.

In October 2008, President Medvedev expressed his reservations with the existing European security order in more specific terms, underlining the necessity to create a new system organized around a new Treaty on European Security. He raised general reservations concerning the structure and functioning of the international security system, as well as concrete grievances generated by the decisions and actions of the West between 1999 and 2008. Among the former category, two appear particularly important: unipolarity, including a “unipolar decision-making process”; and a “bloc”, or more concretely “NATO-centric approach” that has “shown its weakness”.⁶ The con-

6 President of Russia Dmitry Medvedev, *Speech at World Policy Conference*, Evian, 8 October 2008, available online at: http://www.president.kremlin.ru/eng/speeches/2008/10/08/2159_type82912type82914_207457.shtml.

crete grievances consist of a longer list that begins with the failure of the US to co-ordinate its actions on Afghanistan after the overthrow of the Taliban regime and moves on to the US unilateral withdrawal from the ABM Treaty and the establishment of ABM deployment areas in Europe, as well as military bases along Russia's borders. NATO's "full steam ahead" expansion, with the extension of offers of membership to Georgia and Ukraine and the unilateral proclamation of Kosovo's independence end the list.⁷

Most of these decisions could clearly be interpreted as hurting the interests of some states, including the Russian Federation. It is for every state to decide which of the policy decisions of other sovereign actors are contrary to its own national interests and, taking into account the constraints of international law, to decide how to react to such decisions. In addition, it is axiomatic that the concentration of power in the international system represents a significant *de facto* reduction of the sovereign rights of states. The predecessor of the Russian Federation, the Soviet Union, was the counterpart of the United States in the bipolar international order – it may thus be more difficult for Russia to accept the change of its status in the international system than other states, as it has fallen the furthest.

In the same speech, President Medvedev further elaborated his concept of a European Security Treaty, summarizing five elements of his initiative. First, he confirmed the basic principles of intergovernmental relations in the Euro-Atlantic area, in particular "the commitment to fulfill in good faith obligations under international law, respect for sovereignty, territorial integrity and political independence of states", and then alluded to "respect for all of the other principles set out in [...] the United Nations Charter". Second, the "inadmissibility of the use of force or the threat of its use in international relations" was especially underlined, as was "the prevention and peaceful settlement of conflicts in the Euro-Atlantic space" with an emphasis on negotiated settlements. Third, the President outlined his "three no's": A prohibition on ensuring "one's own security at the expense of others", on acts by military alliances or coalitions that could "undermine the unity of the common security space", and finally on the "development of military alliances that would threaten the security of other parties to the Treaty". Fourth, according to President Medvedev "it is important to confirm in the Treaty that no state or international organization can have exclusive rights to maintaining peace and stability in Europe". Fifth, the idea was advanced "to establish basic arms control parameters and reasonable limits on military construction". The need for "new cooperation procedures and mechanisms in areas such as WMD proliferation, terrorism and drug trafficking" was also raised.⁸

The presentation represented a quantum leap in terms of adding detail and substance to the generalities previously outlined by the Russian side. While the principles advanced closely tracked those enshrined in Article 2 of

7 Cf. *ibid.*

8 Cf. *ibid.*

the UN Charter, two additional basic principles of international law – respect for human rights and fundamental freedoms and the right to self-determination of peoples – were neither codified in the Charter nor mentioned by President Medvedev. Their absence promotes a return to a state-centric system of international law, as enshrined by the principles in the 1945 UN Charter, which protects sovereign states rather than peoples or individuals and eliminates the advances made in international law during the last sixty years, disregarding the principles enshrined in the Helsinki Final Act of 1975. The Helsinki Decalogue, though not legally binding, encapsulated the evolution of international law between 1945 and 1975 and reflected the value system shared by the then 35, now 56, CSCE/OSCE participating States. It is highly unlikely that the major changes proposed by the Treaty would be agreeable to most of them.

Several other elements of the initiative are subject to interpretation. There is little or no opposition to the notion that no state or international organization should “have exclusive rights to maintaining peace and stability”. However, the institutions and organs of international organizations that would gain authority in the international system under the proposed Treaty take substantive decisions based either on veto power or on consensus. The UN Security Council is an example of the former, the OSCE of the latter. Consequently, such bodies may well become paralysed. Respect for due process may therefore increase respect for international law while potentially resulting in less international stability.

It is also worth taking a closer look at President Medvedev’s “three no’s”. The first, that no state should ensure its security at the expense of others, paraphrases the classic security dilemma: that efforts to maximize one’s own security minimize the security of others. The second states that no coalition or alliance should undermine the unity of the common security space. This means that once the Treaty on European Security has been concluded, the *de facto* or *de jure* subordination of alliances or coalition of states to the “common interest” would follow. This raises several questions central to security in Europe. What are states, their coalitions or alliances allowed to do if the actors in the “common security space” cannot agree on collective measures? What decision-making mechanism would apply and adjudicate under these circumstances? Given that the consensus principle would be in operation, does this not imply that stalemate and paralysis would be the prevailing trend, with the result that stability in Europe would be weakened rather than strengthened.⁹ The third “no”, the “development of military alli-

9 It is worth remarking that this aspect of the plan triggers historical echoes. In the early 1990s, the Russian Federation recommended that existing institutions be divided into two categories. The UN and (the then) CSCE would become “mandating institutions” able to determine what “mandated institutions”, including NATO and the EU, would be allowed to do. This idea gained no traction, and, following the enlargement of both of the “mandated-institutions”, it is hard to envisage their member states now embracing any such subordination.

ances that would threaten the security of other parties to the Treaty”, also raises interpretative questions. Who decides whether a certain activity threatens the security of other parties? The states that plan to carry out the activity or those that claim to be negatively affected? Will the rule of consensus apply, or will an individual party to the Treaty have the right to veto the decision of the others? Fundamental differences of perception already divide states in the region. For many, the decisions President Medvedev cites as attempts to marginalize and exclude Russia – the NATO operation in Afghanistan, the enlargement of the Atlantic Alliance, the development and potential deployment of anti-ballistic missile systems – are regarded as critical contributions to international security and stability.¹⁰

Just a few weeks later, at the Russia-EU summit in November 2008, President Medvedev further elaborated his initiative by stating that the pan-European summit meeting was to take place under OSCE auspices – a suggestion already proposed by President Sarkozy at the Evian meeting in early October. He also specified which institutions should be involved at the summit meeting. The list included the EU and NATO as well as the CSTO and the CIS. Last but not least, in an unprecedented move, the Russian leadership announced that until a special global agreement on ensuring European security was signed, “we should all refrain from taking any unilateral steps that would affect security”.¹¹ This aimed at freezing the international security situation, including the political status quo. Such a move, following the declarations of independence of Kosovo, Abkhazia, and South Ossetia, may well be in the interest of most players in Euro-Atlantic security. It gains time and may therefore help to reconcile some of the differences in perception, security policy, and practice.

The change in Washington brought about by the inauguration of Barack Obama reinforced the notion of a strategic pause, and underscored the need to calibrate the extent to which a revision of US politics generates new opportunities. While Washington’s European policy appeared to change less radically than its policy towards other strategic theatres, the logic of symbolically “resetting” US-Russia relations suggested that here at least more change (in

10 Another historical echo comes to mind. When in the early 1990s the Soviet Union became willing to conclude new bilateral treaties with its former East-Central European allies on friendship and co-operation, the draft text of the Soviet initiatives regularly included a clause according to which neither side would join an alliance directed against the interests of the other. It was obvious that accepting this would have curtailed the freedom of the smaller states more than that of the Soviet Union, as the latter certainly did not need an alliance to provide for its security. While most East-Central European states rejected the Soviet offer, the question was raised as to who would decide whether an alliance was directed against the interests of the other. Consequently, and in light of historical experience, it is very unlikely that such a proposal could serve as the basis for further exchanges, let alone a treaty.

11 President of Russia Dmitry Medvedev, *Statement and Answers to Journalists’ Questions after the 22 Russia-EU Summit*, Nice, 14 November 2008, available online at: http://www.president.kremlin.ru/eng/speeches/2008/11/14/2126_type82914type82915_209207.shtml.

rhetoric, attitude, and atmosphere, at a minimum) than continuity might be expected. Even though no breakthrough has been achieved during the first seven months of the Obama administration, there are some grounds for optimism.

When President Medvedev held his next major speech addressing the European Security Treaty in Helsinki, in April 2009, he was aware of some of the new US administration's policy intentions. As a consequence, he often mentioned the idea of a long-term vision embodied by the Treaty in conjunction with current policy issues where a breakthrough was considered possible. In addition, President Medvedev appeared to adopt a more inclusive approach to generating discussion of the Treaty proposal: He invited "all states and organisations operating on the European continent to work together to come up with coherent, up-to-date and, most importantly, effective rules of the game".¹² He reiterated that neither "NATO nor the EU seem fully appropriate, because there are countries that do not belong to either. The same applies to organisations such as the CIS or CSTO." The President recognized that there was one organization in Europe that was ideally positioned to host such a summit: the OSCE. Russia was not an enthusiastic supporter of this organization but was "ready to try" to organize the meeting at the OSCE. The President used this forum to highlight that "there is a problem with the OSCE as well. The problem is that recently the OSCE has focussed on solving partial, sometimes even peripheral security issues". The President also drew attention to the fact that a summit should be adequately prepared: "We need to prepare for it and the level of expectations is quite high, as is, incidentally, the level of distrust for the idea. I have repeatedly had to answer questions from our various partners".¹³ That was the first recognition that states would not go into a summit meeting as if it were a "blind date", but would need to answer the question: "Why do we need this and are our current arrangements not enough?"¹⁴

These comments indicated that President Medvedev understood that the summit would not be supported without a well-defined agenda and an adequately prepared draft document. Bearing in mind the complexity of the matter, this would require the launching of a new negotiating process. The opposition to the OSCE being used as the forum to discuss the new agenda is a clear continuation of the longstanding Russian rejection of the domination of European security by soft security (human rights and democratization), despite the fact that it is in this "human dimension" that the OSCE has achieved many successes.

12 President of Russia Dmitry Medvedev, *Speech at Helsinki University and Answers to Questions from Audience*, Helsinki, 20 April 2009, available online at: http://www.president.kremlin.ru/eng/speeches/2009/04/20/1919_type82912type82914type84779_215323.shtml.

13 Ibid.

14 Ibid.

Almost a year after the first indication that Russia was seeking to launch a process to reconsider European security architecture and initiate a new European Security Treaty, the Russian Federation arrived at a point where it had to specify what exactly it was proposing, and more specifically, the purpose of the proposed summit meeting, how it would contribute to the elaboration of a Treaty on European Security, and, most importantly, how would it relate to the current security agenda and the existing web of European and Euro-Atlantic institutions. The proposal had yet to move beyond rhetoric and become operational. For nearly a year, President Medvedev had taken the lead and associated his European policies with the European Security Treaty initiative. The “operationalization” of the initiative had to take into account the details of the reality of international relations. At this point, the Russian foreign ministry which had hitherto played practically no visible role became involved in the process.¹⁵

Foreign Minister Sergey Lavrov used the opportunity to combine seeking support for the European Security Treaty idea with outlining Russian policy on a more concrete set of issues. He noted that Europe had failed to make the indivisibility of security a reality over the last 20 years, highlighting numerous violations of respect for the principle “to refrain from strengthening one’s own security at the expense of the security of others”.¹⁶ He argued that Russia intended to create an “integral security space” within the Euro-Atlantic area based on shared norms and standards that should apply to every context.¹⁷ Lavrov advocated these principles as the basis of relations between

15 This understanding that the Russian Foreign Ministry’s lack of engagement in the European Security Treaty process demonstrates reserve or perhaps even “latent opposition”, is not particularly well-founded. Firstly, in recent years the Russian Ministry of Foreign Affairs has been involved more in implementing policy than in policy-making. Secondly, as several elements of the European Security Treaty proposal did not move beyond the declaratory level, the role of the Foreign Ministry remained limited to collecting feedback on the proposal and thus indirectly helping to shape its elaboration. The fact that Russian diplomacy, given the constraints imposed on the country in general and on diplomatic practice in particular by the financial crisis, the effects of which were exacerbated by Russia’s budgetary dependence on energy exports, may find it extremely challenging to achieve even partial success on the basis of the President’s plan is a separate matter. For a consideration of possible reservations of the Russian Ministry of Foreign Affairs, see Fedorov, cited above (Note 2), a very insightful paper, especially p. 24. On the effects of the financial crisis on Russia and on other structural weaknesses of the country, see Dmitry Medvedev’s article, *Go Russia!* of 10 September 2009, at: http://eng.kremlin.ru/speeches/2009/09/10/1534_type104017_221527.shtml.

16 Statement by Mr. Sergey Lavrov, Minister for Foreign Affairs of the Russian Federation, at the Opening Session of the OSCE Annual Security Review Conference, *The challenges of “hard security” in the Euro-Atlantic region. The role of the OSCE in establishing a stable and effective security system*, PC.DEL/480/09, Vienna, 23 June 2009. p. 1.

17 The Russian Federation wants to eliminate double standards and recommends the establishment of pan-European conflict resolution standards instead. Foreign Minister Lavrov illustrated the point by reference to the modes of conflict resolution applied in Kosovo, on the one hand, and Abkhazia and South Ossetia, on the other. “In one case, an ethnic conflict provides a basis for recognizing the independence of a territory, and what is more a territory that no one has been threatening during the last ten years, while in another case territories whose populations have been the victim of repeated armed aggression and provocations in recent years are denied this right.” *ibid.* p. 5.

states, echoing what President Medvedev had said eight months earlier. These principles correspond to a system focused on state sovereignty, although the “right of peoples to determine their own fate”¹⁸ is also included. It is important to note, however, that there is no reference to the right to self-determination of peoples.¹⁹ Lavrov repeated the President’s three “no’s”, adding a further commitment to “respect the right of any State to neutrality”.²⁰ As far as the European security agenda was concerned, Russia’s preference was for greater attention to be paid to hard rather than soft security matters. Lavrov argued that indivisible security has not been achieved in Europe because the OSCE was not allowed to deal “with the entire range of problems in the Euro-Atlantic area [...] on the basis of [...] an open system of collective security in the region”.²¹ His key message was that arms control, confidence-building, restraint, and reasonable sufficiency in military doctrine should play a more important role on the agenda than they have hitherto.

The Chances of a Fair Assessment

When analysing the reception granted to the European Security Treaty initiative, it is necessary to take into account that Russia, as the successor state of the Soviet Union, suffered the most severe loss of international status with the end of the Cold War. Its accommodation to the post-Cold War system was only apparently successful for a short period: Ultimately, it could not accept the status of junior partner to the West. In addition, the “basket of capabilities” that had underpinned Soviet global superpower status – including nuclear military power – was in decline in every respect, rendering Russia’s post-Cold War goal of recognition as an independent pole within a multipolar world increasingly harder to attain. This context provides the objective foundation of Russia’s dissatisfaction and frustration, and increasingly drives its revisionism.

According to its own narrative, Russia has been unfairly treated, constantly humiliated and subordinated by the West since the end of the Cold War. Under Yelstin and Kozyrev in the early 1990s, it failed to receive due recognition for its co-operative attitude, its Western-oriented transformation, and its contribution to security, including nuclear stability. In the late 1990s

18 Ibid.

19 The original Russian version of the presentation reflects this difference more starkly. It speaks about “prave narodov rasporyazhatsya svoei sud’boi” rather than about the “print-sip samoopredeleniya narodov i natsii”. Vystuplenie Ministra inostrannykh del Rossii, S.V. Lavrova na otkrytii ezhegodnoi konferentsii OBSE po obzory problem v oblasti bezopasnosti, Vena, 23 iyunya 2009 goda: *Vyzovy zhestkikh bezopasnosti v Evro-Atlantike. Rol’ OBSE v sozdanii ustoichivoi i effektivnoi sistemy bezopasnosti*, p. 5, available online at: http://www.mid.ru/brp_4.nsf/2fee282eb6df40e643256999005e6e8c/aded9c34ee795d2bc32575de003dec1?OpenDocument.

20 *Statement by Mr. Sergey Lavrov*, cited above (Note 16) p. 6.

21 Ibid. p. 2.

under Yeltsin and Primakov, Russia failed even to gain sufficient recognition as a regional great power. After 11 September 2001, the *quid pro quos* in return for realignment and intelligence co-operation in fighting international terrorism were not forthcoming. Throughout the two George W. Bush administrations, Russia understood that the US regarded it as an unreliable partner that should be monitored suspiciously and, on occasion, treated harshly. Western institutions rapidly enlarged membership to the east, integrating states that had formerly – and unwillingly – constituted a buffer between the West and the Soviet Union. Institutions in which Russia had a well-established constitutional status – not least the UN Security Council – were ignored by the US. The agenda of the CSCE/OSCE changed and gained a bias that was not welcomed by Russia. Russian documents are not short of concrete grievances that punctuate this narrative of exclusion and marginalization. In short, the direction taken by European affairs threatened many Russian interests. However, the fact that the Russian leadership, under Vladimir Putin in particular, perceived that Russian state interests were being undermined is unfortunate, but not necessarily illegal, illegitimate, or unacceptable. Indeed, in some cases Russia has become hostage of its own thinking: The narrative of restoration and renewal in the 21st century following chaos and disintegration in the 1990s is dependent on accusations of Western encirclement and hostility.

Given the seriousness of some grievances and the frequency at which they were raised, it would be foolish to dismiss them all as without foundation. There is bipartisan consensus in the US that the George W. Bush administration gave grounds for some of Russia's concerns and also contributed to a generally poor atmosphere in US-Russian and more broadly Western-Russian relations. According to two former Republican Secretaries of State "fairness requires some acknowledgement that the West has not always been sensitive to how the world looks from Moscow".²² In the view of the current Secretary of State, relations were characterized by "a rather confrontational approach toward Russia in the previous [US] administration".²³ In recent years, the US has inadvertently contributed to Russia's conception of itself as a state that is systematically bullied by Washington. Consequently, when Russia advanced a treaty initiative with the aim of addressing exclusion and marginalization, it deserved a fair hearing (and perhaps more) from some of its Western partners, who were conscience-bound to judge it on its merits. Such reactions were indeed forthcoming and may have encouraged Russia to further elaborate its initiative rather than continue merely to float it as a trial balloon. Despite reservations concerning Prime Minister Putin's real policy goals, and concern over President Medvedev's lack of actual autonomy,

22 Henry A. Kissinger/George P. Schultz, Building on Common Ground With Russia, in: *The Washington Post*, 8 October 2008, p. A19, at: www.washingtonpost.com/wp-dyn/content/article/2008/10/07/AR2008100702439.html.

23 Hillary Clinton, *Interview with Mark Mardell of BBC*, 6 March 2009, at: <http://www.state.gov/secretary/rm/2009a/03/120108.htm>.

many states were prepared to give the new Russian president the benefit of the doubt.

Medvedev's initiative can be commended for breaking with the past insofar as it no longer merely reiterates objections to specific decisions taken by the West that Russia has had to endure. Instead, it conceptualizes its rejection of the development of Russian-Western relations over the last twenty years in systematic terms, advancing a framework that reflects its dissatisfaction as a whole, and suggesting a solution to the problem identified. Thus, although certain elements of the initiative were judged unacceptable by many actors in the Euro-Atlantic area, some were worthy of consideration.

The Medvedev initiative challenges the existing status quo in three main domains: first, the political and territorial status quo and the means traditionally used to achieve change; second, the basic principles of the post-Cold War international system, including the role of force and the resolution of international conflicts; and third, the evolution of the system of European and Euro-Atlantic institutions, with an emphasis on NATO. Let us examine each in turn.

The Political and Territorial Status Quo in Europe

The Russian Federation has had to manage the transformation of both the territorial and political status quo since the end of the Cold War. Such adaptation is usual during periods of systemic change – it constitutes the backbone of mankind's historical development. Yet the fact that such events occur frequently does not lessen the trauma for states that are affected by them, particularly those states that experience a resultant contraction and loss of political influence. The Russian Federation, the Soviet Union's most important successor state, had been in continuous territorial expansion since the 16th century but now faced three challenges to its territorial integrity.²⁴ First, the dissolution of the Soviet Union reversed Russian and Soviet territorial gains. Second, between the mid-1990s (the outbreak of the First Chechnya War) and the re-centralization of Russian administration under President Putin, the fragmentation of the Federation was a constant threat. Third, Russia had little influence over changes to the territorial status quo beyond the former Soviet space. The processes that ultimately led to the independence of Kosovo and Montenegro are key recent examples.

The political status quo has also been transformed. The entire process of post-Cold War democratization of East-Central Europe and then the Western Balkans occurred hand in hand with the process of Westernization. The institutional dimension of this process was manifest in the eastern enlargement

24 The unification of the two German states is not considered one of these challenges. Russia could not contest this process, as the Soviet Union had given its assent on a number of instances. Here the dispute centred on whether Russia was promised no eastern enlargement of NATO by way of compensation.

of Western organizations ranging from the Council of Europe to the European Union and NATO. Russia did not challenge those changes as long as it also thought it could find its place among European democracies. Interestingly, Russia reacted pragmatically to democratic transition, but was challenged by the concurrent reorientation of allegiance, and the move of many states from a *de facto* non-aligned status to NATO membership that accompanied the enlargement of Western institutions. When Russia realized it could not prevent strategic reorientation, it attempted to exact as much “compensation” for its perceived and declared loss.²⁵

Bitterness accumulated as the process of Western integration moved from East-Central Europe to the Western Balkans, but the real sea change in Russian attitude and perception occurred when, in parallel with the consolidation and centralization of state power and the economic recovery in Russia, the transformation process extended further into the former Soviet space. The so-called colour revolutions that occurred in Georgia, Ukraine, and Kyrgyzstan between late 2003 and early 2005 suggested that the newly independent states could strategically realign themselves with the West.

It has been a longstanding policy of the Russian Federation to maintain the status quo: Ongoing and disadvantageous shifts in power relations would only exacerbate Russia’s loss of influence and further undermine its interests. Influenced by the fact that the George W. Bush administration made the “freedom and democracy” agenda the centrepiece of its foreign policy, Russia drew the conclusion that revolutions and other types of democratic transformation processes were primarily driven by external influence.²⁶ Though external factors were significant, necessary internal prerequisites included a lack of performance legitimacy on the part of the regime, a relatively high degree of media freedom, a vibrant civil society, and unity among the political opposition. Democratic transformation is an organic process that may be fostered, but it can hardly be imposed. As President Obama noted: “No system of government can or should be imposed upon one nation by any other. That does not lessen my commitment, however, to governments that reflect the will of the people.”²⁷

The Medvedev plan reflects this overriding concern. It aims to freeze the status quo temporarily with a view to eventually stopping all change. This aspiration is understandable, but it is built on quicksand. It assumes that external actors and forces have a central if not dominant role as drivers of the

25 Notably, the NATO-Russia Charter of 1997, and the agreement on the establishment of the NATO-Russia Council in 2002 both served to contribute to Russian acceptance of the 1999 and 2004 NATO enlargements.

26 Although it is impossible to ascertain what Russia learned about the activity of foreign states in the Ukrainian and Georgian transformation processes, it is notable that those with longstanding experience of state security, particularly in the intelligence field, tend to rely more on conspiracy theories than others.

27 *Remarks by the President on a New Beginning*, Cairo University, Cairo, Egypt, 4 June 2009, available online at: http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-at-Cairo-University-6-04-09.

ongoing ideational, institutional, structural, and systemic transformation processes in the post-Soviet space, ignoring the role of internal state elites and societies and their strategic preferences. It also suggests that it is acceptable to curtail the freedom and political choice of other nations. If accepted, it would also mean that no further entity could seek and gain recognition in the Euro-Atlantic area as sovereign state. Though this would have some positive impact on stability, it would also freeze change and exclude certain solutions to protracted conflicts such as the one in Nagorno-Karabakh.

The Legal Foundations of Euro-Atlantic Security

As noted above, the Medvedev plan places an almost exclusive emphasis on the classical principles of international law, centring on the protection of state sovereignty and the prohibition of the threat or use of force.²⁸ This occurs at the expense of those basic principles that protect subjects other than the state. It entails a *de facto* return to a decades-old system based on unlimited internal sovereignty and the denial of modern international law's contribution to a range of different processes, from decolonization to human security. This implication is certainly not acceptable to many states in the Euro-Atlantic area.

The Medvedev proposal suggests that only the "old" principles, (those codified in Article 2 of the UN Charter) such as sovereign equality and non-interference in domestic affairs, matter in the Euro-Atlantic context. This also reflects a selective attitude towards the UN Charter, as it disregards the principles enshrined in Article 1 of the Charter, the purposes of the United Nations.

Some experts assert that the non-intervention principle ceased to apply in the OSCE context several years ago.²⁹ For this to be so, either the Helsinki Decalogue has become partly invalid or overwritten by elements of the *acquis* adopted later, or the consensus of the participating States has modified the rules *de facto*. However, as the Helsinki Decalogue has been in place since its adoption in 1975 and some participating States regularly refer to the consistency of the ten principles it enshrines, it has clearly neither been overwritten by aspects of the *acquis* adopted later, nor revised *de facto*. Consequently, just as the position advanced by the Russian president's plan cannot serve as the foundation for a pan-European treaty, neither can extreme claims based solely on the right of self-determination and human rights be selectively applied. Russia's partiality highlights the ongoing inability of all the participating States to work together in order to arrive at a compromise that preserves the integrity of the basic principles. The implicit recognition that a norm-based international system offers lasting advantages over one that

28 This shortcoming of the Medvedev plan was also noted by Fedorov, cited above (Note 2), p. 12.

29 See, for example, Arie Bloed, CIS presidents attack the functioning of the OSCE, in: *Helsinki Monitor* 3/2004, p. 220.

is based on the law of the jungle is not to be belittled. It both underlines the changes that have taken place in power relations and represents a reaction against the arbitrariness that has prevailed in recent years.

Euro-Atlantic Institutions

Russia's foundational assumption is that the structure of Euro-Atlantic institutions does not function properly. This impression is not widely shared. Most states understand that the post-Cold War institutional structure did not come about by design but rather through evolution and that, though it undoubtedly contains certain redundancies,³⁰ it can hardly be replaced by a new structure based on a grand design.

Russia complains that the European security structure is NATO-centric, which suggests that its dissatisfaction stems from the fact that other institutions do not play as important a role in European security as NATO does. It is difficult to dispute perceptions – indeed, contrasting them with reality would be defeated on the ground that the “reality” proffered itself only represents an alternative set of perceptions. Rather, two points should be taken into consideration. First, international organizations, including institutionalized military alliances such as NATO, act upon the will of their masters, the member states. Second, the impression that European security is NATO-centric depends partly on the definition of security in the contemporary European context. The more it is narrowed to defence matters, the more convincing the claim of NATO-centrism becomes. If these two points hold, then the Medvedev initiative should address more fundamental questions. Why has NATO survived the fundamental rearrangement of European security following the end of the Cold War? Why do many European countries hold the view that NATO does make a useful contribution to European security and hence that membership has a certain attraction and value? Why has NATO enlarged?

When one studies official Russian statements and considers the observations of analysts, it is easy to gain the impression that Russia has a rather singular vision of the North Atlantic Alliance. More often than not it regards NATO as the transmission belt of its largest military power: The alliance is seen as unquestioningly implementing US policy. If this is so, why was the Iraq operation non-NATO? Have all new and prospective members been manipulated, if not brainwashed? Why, in some cases, has NATO accession been confirmed in referenda with a large majority of the popular vote? Russia rejects the obvious: Accession countries perceive enlargement as a net positive contribution to their security; NATO accession is understood as a diplo-

30 In addition to an endless list of scholarly articles, it is worth highlighting a collective effort: *Towards Complementarity of European Security Institutions: Achieving Complementarity between NATO, EU, OSCE and the Council of Europe*, Report of the Warsaw Reflection Group, January 31-February 1, 2005, Warsaw 2005.

matic success, stabilizing governments that achieve it; and, “the admission of new members is proof that NATO continues to be attractive”.³¹

It would be futile to juxtapose Russia’s position on NATO’s “internal decision-making structure” with the formal rules and regulations of the Washington Treaty. Though there are major differences in power and influence between individual members, Russia’s determination to maximize the importance of the US while minimizing the influence of other NATO members, and to ignore NATO’s complexity, leads to unfounded conclusions and misguided policy prescriptions. NATO is the essential component of the transatlantic link; it represents the security framework of choice for a large number of its member states, especially those concerned by asymmetrical security challenges emanating from Russia. Indeed, it is these states that most persistently question the purpose of the European Security Treaty initiative.³² While the prevailing view in Russia holds that the deterioration of military security in Europe began with the NATO bombing of Yugoslavia in 1999, some NATO states argue it started with the five-day war between Russia and Georgia in August 2008.

Russia claims to be dissatisfied with a European security agenda that focuses on issues of “marginal importance” at the expense of hard security matters (though they continue to be relevant). It contends that the OSCE has lost the balance between its dimensions, overemphasizing the human dimension, democratization, and intrusive election observation activity, and refuses to rebalance itself. This led to Moscow establishing conditions for the observation by OSCE election monitors of its legislative and presidential elections that were entirely unacceptable to the OSCE, as they would have made it impossible for monitors to ascertain whether the elections were free and fair.

It is not entirely clear what the priorities of the politico-military dimension should be. Russia regularly highlights two areas in need of attention: the peaceful settlement of disputes and arms control. As far as the former is concerned, Moscow seems to focus on a narrow understanding of conflict settlement, one that follows the high-intensity conflict phase. This approach does not require the application of major resources, and it is the conflict parties themselves that determine which institution they entrust with conflict settlement. A broader approach to the conflict-management cycle would acknowledge that the OSCE is endowed with insufficient resources to render it a suitable agent for multidimensional post-conflict peacebuilding, which incorporates the human dimension that Russia underplays. Nevertheless, it is for the OSCE participating States to decide whether to give priority in conflict management to a pan-European organization or to an institution with a smaller circle of members and, thus, more cohesion.

31 Federal Chancellor Gerhard Schröder, *Speech on the 41st Munich Conference on Security Policy*, 12 February 2005, available online at: http://80.86.3.56/archive/konferenzen/rede.php?menu_konferenzen_archiv=&menu_2005=&menu_konferenzen=&sprache=en&id=143&.

32 Estonia is a case in point.

Arms control has lost its former prominence on the OSCE agenda. The OSCE has not adopted a single pan-European CSBM package this century. The CFE process (associated with the OSCE to a degree) resulted in first a stalemate and then complete suspension. In the Bush and Putin years, Russia's insistence on a matter of principle collided with US pragmatism. The George W. Bush administration adopted a largely negative approach to European arms control: "We are against negotiating new traditional style arms control/CSBMs, although we MAY be willing to consider specific proposals if there is a clear security need to be addressed."³³ A number of pragmatic, concrete initiatives were agreed, such as documents on small arms, man-portable air defence systems (MANPADS), and WMD proliferation, though addressing the explosive remnants of war is more of a knowledge- and resource-transfer project than anything else. Russian initiatives to address arms control issues, ranging from navies to rapid reaction forces, have not gained widespread support. Russia's relatively strong voice in European arms control affairs is due in part to the ill-considered policy of the Bush administration, which demonstrated little sensitivity to Russia's often symbolic attachment to a number of agenda items. It is now open to question whether participating States are willing to accept a pan-European arms control forum as a lesser evil. If they continue to insist that Russia demonstrate a need for such a forum, then European arms control, including the CFE process, will sink into oblivion.

Although there is no consensus as to whether the OSCE is in crisis,³⁴ it has certainly enjoyed greater influence in the past than it does today. Given that Europe is the continent with the highest degree of regional integration, it is remarkable that the only security organization in which all the states of the region participate does not play a more prominent role. While it may not be the most appropriate time at which to undertake a major change in the structure of European institutions, thinking innovatively about the role of the OSCE or a successor organization would be worthwhile. It has been argued that, on the basis of the Medvedev initiative, "the OSCE would be transformed into an Organization for Collective Security and Cooperation in Europe (OCSCE) and would acquire new functions, including military-political ones, while it would not have Cold War genes."³⁵

President Medvedev's initiative appears to have two levels. It asserts that European unity is the goal and to that end insists that preference be given to pan-European integration over less inclusive groups, and NATO in particular. At the same time, Russia welcomes the possibility that regional or-

33 *Statement by US Permanent Representative Ambassador Julie Finley, As delivered at the morning session of the High Level Consultations, Vienna, 13 September 2005, p. 3, available online at: http://osce.usmission.gov/media/pdfs/2005-statements/hlc_09_13_05.pdf.*

34 For two generally opposed views, see David J. Galbreath, *The Organization for Security and Co-operation in Europe*, Wilton Park 2007, particularly chapter 7: "Crisis? What Crisis", pp. 128-133, and Pál Dunay, *The OSCE in crisis*, Chaillot Paper no. 88, Paris 2006.

35 Karaganov, cited above (Note 2).

ganizations such as the CIS and CSTO, which are firmly under its leadership, could secure pan-European recognition, parity, and legitimacy. It is difficult to square such an apparently self-serving circle. Will greater unity be achieved through the further fragmentation of European security by the increase in the number of institutions?

The “Reset Button”

The Obama administration has left no doubt that it would like a new beginning with Russia, declaring its intention to push the “reset button” in the two countries’ mutual relations. This is partly explained as a reaction to the ill-fated policy of its predecessor, and partly by a number of objective reasons. There are basically two interpretations of the Bush administration’s Russia policy: Either it did not exist, or it was simply ill-conceived. If it existed, it was based on ideological prejudice: It associated Russia with the Soviet Union and regarded Moscow as a rival that was seeking to increase its regional and global influence fuelled by the export of hydrocarbons. Either way, the belittling of Russia’s potential as a troublemaker and a partner proved counterproductive.

The contours of what Washington would now like to achieve, however, are not fully clear a year into Obama’s presidency. The US seeks a strategic dialogue and would like to re-establish a community of interests centred on pressing global issues that constitute shared threats, including preventing the proliferation of weapons of mass destruction, combating terrorism and the drug trade, or addressing non-European regional security matters – not least Afghanistan,³⁶ Iran, and North Korea. Washington is also anxious to reduce its and Moscow’s nuclear arsenals, which together amount to 95 per cent of nuclear weapons in existence worldwide. In sum, Russia is primarily important for the US as a partner in global and nuclear affairs.

Where co-operation may be highly problematic is in areas and issues that lie closer to Europe, primarily in the former Soviet space. One of the most divisive issues in Russian-US relations regards the status of unresolved conflicts in the Black Sea region and the South Caucasus. The rest of Europe is largely peaceful, integrated in Western institutions or, like the Western Balkans, has a prospect of Western integration in the medium term. As Vice-President Biden pointed out, “the United States will not recognize Abkhazia and South Ossetia as independent states. We will not recognize a sphere of influence. It will remain our view that sovereign states have the right to make

36 This is illustrated by an agreement signed by presidents Obama and Medvedev at the July 2009 Moscow summit, which allows 4,500 flights through the Russian airspace to facilitate the re-supply of Afghanistan.

their own decisions and choose their own alliances”.³⁷ Russia’s recognition of the independence of Abkhazia and South Ossetia has resulted in a new status quo that is supported by the populations of all three. Interestingly, the situation that emerged after August 2008 offers the promise of lasting, though somewhat volatile, stability. For though Abkhazia and South Ossetia may complicate things, they do not represent insurmountable barriers to co-operative US-Russian relations.

Russia’s continued opposition to the accession of former Soviet Republics to NATO is legitimate, but it must be grounded in respect for the sovereignty of its neighbours and not advanced through tactics verging on blackmail. As there is little consensus in NATO over enlargement to Georgia (questionable territorial integrity) and Ukraine (lack of public support), there will be no NATO enlargement in the former Soviet space in the foreseeable future. However, the US cannot formally promise that there will be no NATO enlargement to the East for three reasons. First, such a declaration would curtail the freedom of choice of potential candidates for membership. Second, it would result in a loss of NATO leverage over potential members. Third, it would also limit the freedom of the 27 other NATO member states to adopt a different position from that of the US. Russia will continue to instrumentalize “Western expansionism” for propaganda purposes, highlighting its opposition to a process that will not take place to demonstrate its power to effectively prevent NATO enlargement to the Russian electorate and its partners in the former Soviet space.³⁸

The Russian Federation had high hopes after the change of administration in the US and found Washington’s conciliatory statements reassuring. Moscow understandably expects that co-operation will gather pace and a breakthrough will be forthcoming. This expectation does not acknowledge the structural constraints that continue to be present on both sides. Neither the Russian leadership nor the US is united in support of making major concessions to achieve a breakthrough. Furthermore, Russia has demonstrated sensitivity to even marginally critical comments on its potential and role in the international system.³⁹ This is particularly true with regard to Europe, where

37 Biden, quoted in: Helene Cooper/Nicalas Kulish, U.S. Rejects “Sphere of Influence” for Russia, in: *New York Times*, at: http://www.nytimes.com/2009/02/07/world/europe/07iht-07munich.20001384.html?_r=1.

38 Irrespective of the fact that NATO enlargement to the east is hardly imminent, the US strongly argues for the success of enlargement: “It is our view that those states who have joined NATO are more free, more prosperous, more stable, and more secure than they were before. We believe that this is ultimately also in Russia’s interest. I would note that these states have joined NATO of their own free will [...] that NATO is a defensive alliance and that, indeed as a result of enlargement, in fact, NATO has reduced its military equipment levels across Europe.” *Remarks as delivered by Bruce Turner, Director, European Security and Political Affairs, Department of State to the opening session of the ASRC*, 23 June 2009, p. 3, available online at: http://osce.usmission.gov/media/pdfs/2009-statements/st_062309_asrc.pdf.

39 US Vice President Joseph Biden expressed the following view on Russia: “They have a shrinking population base, they have a withering economy, they have a banking sector and

the US and Russian positions are far apart, and the US faces co-ordinated opposition from a number of its allies. Russia needs to acknowledge the constraints that the US is up against, to avoid regarding America's smaller partners as identical copies of the US (a phenomenon Foreign Minister Lavrov characterized as "cloned states"), and to assume that the "reset button" could mark the shortest honeymoon period in the history of US Russian relations.⁴⁰

Conclusions

The launch of a process involving political negotiations between all of Europe's states and intergovernmental organizations that would lead to a European Security Treaty is central to President Medvedev's European policy. This initiative reflects both the direction in which Russia would like European security architecture to develop and Moscow's mounting dissatisfaction with political and institutional developments since the end of the Cold War, particularly since 1999. It aims to freeze the political and territorial status quo in Europe, as change would tend to further diminish Russia's power relative to the West. Although Russia's weight in the international economic system measured in terms of its contribution to global GDP has increased during the last five years thanks to its rich natural resource base, this is outweighed by its decline relative to the US and larger EU member states in politico-military importance.

This initiative seeks to establish a normative base for European security through the codification of a set of basic principles that closely resemble those of the United Nations Charter. However, principles that have enriched international law during the last six decades, including the right to self-determination of peoples and respect for human rights and fundamental freedoms, are marginalized. This selective application of norms is not supported by many states in Europe, which seriously undermines the proposed new normative base of this treaty.

Russia faces a dilemma when it tries to define the role of European security institutions in this system, and particularly the role of the OSCE. Although Moscow is dissatisfied with the OSCE's activities, it regards it as a lesser evil compared to traditional Western institutions, especially NATO. As the OSCE is the only pan-European institution, Russia argues that it should play a central role on the most integrated of all continents. However, in real-

structure that is not likely to be able to withstand the next 15 years, they're in a situation where the world is changing before them and they're clinging to something in the past that is not sustainable." Cited by Lynn Berry, US Vice President Biden hits nerve in Russia, in: *The Washington Post*, 27 July 2009, available online at: www.washingtonpost.com/wp-dyn/content/article/2009/07/27/AR2009072701154.html.

40 An author at a critical Russian website observed that the US Vice President had told the truth and that this offended the Kremlin. See Aleksandr Golts, Biden skazal pravdu, Kreml obidel'sya [Biden told the truth, the Kremlin was offended], in: *Ezhednevnyi zhurnal*, 27 July 2009, available online at: www.ej.ru/?a=note&id=9313.

ity, Russia's acceptance of the OSCE will depend upon how willing the Organization's participating States prove to be to accept a renewed emphasis on hard (military) security – a source of real concern for Russia – at a time when the relevance of military security for many European countries is in sharp decline. As the OSCE's *raison d'être* is to embody a comprehensive approach to security, the human dimension cannot be marginalized by Russia's cherry-picking of issues, particularly when many other participating States consider it central to European security.

The launch of Russia's European Security Treaty initiative was well-timed to influence and shape the strategic adjustments to the international security agenda that occur with each new US administration. However, the initiative appears to have lost steam. The more specific it became, and the more it addressed immediate concerns, the less radical the potential outcome appeared. It contains requests that, while redundant, can be presented as diplomatic victories: What state would refuse to respect international law? Similarly, is it likely that NATO will press for the accession of Ukraine and Georgia in the near future?

It is too early to conclude whether the European Security Treaty proposal is primarily a tactical initiative whose main purpose is to demonstrate that there is no chance of turning Europe into a collective security area. If it is, then Russia will gain freedom and additional legitimacy to build its own zone of influence even more overtly than it has done since President Boris Yeltsin's second term. This could then result in a redivision of Europe and the long-term coexistence of two groups of states operating on the basis of partly different principles: market democratic versus market authoritarian. Even though this division is not a preferable scenario and would curtail the freedom of choice of some states in Russia's orbit, it does not threaten a fully fledged East-West confrontation. In this sense, the less the initiative is discussed and debated, and the more it is dismissed out of hand, the greater is Russia's moral authority and the stronger its legitimizing narrative for returning to a division akin to the type reached at Yalta and Potsdam, but incorporating the realities of the early 21st century.

Assuming, however, that the reception is lukewarm rather than freezing cold, the initiative may also serve some more mundane practical purposes. These may include some rebalancing of the various dimensions of the OSCE, the attribution of greater importance to its politico-military dimension and, conceivably, the possibility of an OSCE summit. It may lead to the launching of arms-control negotiations. And last but not least, it may contribute to providing Euro-Atlantic legitimacy to the CSTO, an organization that operates in those seven post-Soviet states that co-ordinate their political line more closely with Russia than do some others. In sum, the Medvedev plan may be a sufficiently ambiguous catalyst to drive forward a new process, but its very ambiguity, its internal inconsistencies, and Russia's inability to state what it

wants as clearly as what it does not undercut the basis for consensus as to the role, mission, and duties of an overhauled European security architecture.

The OSCE Participating States:
Domestic Developments and Multilateral Commitment

US Foreign Policy in the Post-Bush Era: Implications for Europe and the OSCE

Introduction

Americans have a new president in Barack Obama, and they have been eagerly awaiting what his mantra, “*Change we can believe in*”, will mean for them. This was no “ordinary” US presidential election; indeed, one almost had the sense that Obama was elected by a *global* and not merely a national constituency, suggesting a new significance for the term “America, the world’s ‘indispensable’ nation” as well as a new meaning for “globalization”.

At the time of writing, Obama has been in office for some nine months, providing an opportunity to assess what the implications of his presidency promised to be and have been; in effect, to compare his campaign promises with his actual behaviour as president. Since the US does impact the rest of the planet in so many ways – global emissions of greenhouse gases, economic activity, proliferation of weapons of mass destruction (WMD), conflict, and cultural diffusion in general – this can be a useful exercise for Americans and others to track the impact of the Obama presidency on multiple fronts and, in the process, explore where a better fit between rhetoric and reality can be attempted.

The Pre-Obama World

Barack Obama’s election as 44th president of the United States was a truly revolutionary development. For one thing, he is not only an African American but the *first* African American to be elected to this office, something that promises to have a global impact. Considering the violent nature of race relations in American history up to the present time,¹ including the virulently racist nature of many Americans’ reactions to Obama, both before and after his election, his election is remarkable.

Bush Is from Mars, Obama Is from Venus

Obama’s election also represents a revolution in US foreign policy. Shortly before the US-led invasion of Iraq in late March 2003, Robert Kagan pro-

1 Cf. Gunnar Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy*, Volumes I and II, New York 1962.

duced a compelling account of the paradigmatic differences in foreign affairs between the two primary guarantors of global peace and stability, Europe and the United States.² Being *Hobbesian* and “from Mars”, the US under George W. Bush was quick to countenance the use of force to achieve its goals, in contrast to the Europeans who, being *Kantian* and “from Venus”, were and remain more likely to seek diplomatic solutions to complex global problems. To put it simply, *the Europeans were far more “OSCE-friendly” than the Americans during the Bush years.*

For Kagan, the reasons for this stark contrast had nothing to do with national character, but were a function of America’s unique standing in the world as the sole superpower. By virtue of its power status, the US can do basically anything it wants, and, with the invasion and continued occupation of Iraq, it clearly has.

In view of America’s staggering military might, therefore, the presidency of George W. Bush was characterized by aggressive unilateralism following the terrorist attacks of 11 September 2001, resulting in the “war of choice” in Iraq whose only beneficiaries seem to have been Halliburton, Blackwater USA/World, oil companies and, of course, Iran. The Iraq war, predicated on dubious premises, has killed over 4,000 Americans and wounded more than 30,000 others who have often returned home to sub-standard medical treatment. The war has also killed, wounded, and displaced tens of thousands of Iraqis. According to the CIA and other intelligence agencies, the war has become a PR coup for Al-Qaeda and a magnet for many Muslims worldwide, radicalizing them to participate in the Jihad against the “Crusader”. In the process, they have been “tested under fire”, learning how to kill Americans and other Westerners before returning home prepared to continue their “holy war”, whether in Peshawar, Mumbai, Amman, Cairo, Gaza, Mindanao, Pattani, Bali, London, Madrid, Amsterdam, Brussels, Brooklyn, or Jersey City. Abu Ghraib, Guantanamo Bay, “extraordinary rendition”, violations of Americans’ and others’ civil rights, incompetence, and total failure on multiple domestic (e.g. Hurricane Katrina) as well as international fronts (e.g. the war in Afghanistan), also characterized the Bush administration. In addition, Bush’s “Hobbesian state-of-nature” political/economic philosophy was disturbingly compatible with the current global financial crisis – the most catastrophic since the Crash of 1929.³

Against this highly challenging background, Americans elected Senator Barack Obama as their first post-Bush president. He is a black man whose middle name is Hussein. His mother was a white Christian from Kansas,

2 Cf. Robert Kagan, *Of Paradise and Power: America and Europe in the New World Order*, New York 2003.

3 Cf. Dennis Sandole, The Western-Islamic “Clash of Civilizations”: The Inadvertent Contribution of the Bush Presidency, in: *Peace and Conflict Studies* 2/2005, pp. 54-68; idem, The “Fog of War” on Terrorism: US Policy, Deception, and the Continuing Slide into the “Clash of Civilizations”, in: *ILSA Journal of International And Comparative Law* 1/2006, pp. 149-170.

while his father was a Kenyan Muslim. He lived as a child in Indonesia and Hawaii. For these and other reasons, e.g. his community organizing work in Chicago,⁴ Obama offers hope to millions domestically and worldwide – hope of bringing together people from a wide variety of backgrounds to work on constructive change towards open and accountable government, enhanced human and civil rights, a return of America to its historical and cherished role as a founding architect of liberal democracy, plus a renewal of America’s mission in assuming a leadership role in galvanizing others to help solve complex global problems. It is this promise which resulted in Obama being awarded the Nobel Peace Prize for 2009.

The Promise of Obama

President Obama’s overall promise to “change America and the world” derives from his multiracial, multicultural, and multireligious background; his ascent from an economically stressed (but loving) childhood to the heights of Harvard Law School and editorship of the *Harvard Law Review*; and his experience as a community organizer on the South Side of Chicago, assisting the survival of some of America’s “Wretched of the Earth”.⁵ As a consequence, he possesses an uncanny capability to see the world in terms of multiple perspectives, including those indexed by Samuel Huntington’s “clash of civilizations”.⁶

Being able to see the world *empathically* as others do, including those against whom Bush had been perceived to be at war, enables Obama to be the “*global community organizer*”, bringing people together from a wide variety of perspectives and, through *dialogue*, arriving at consensus on how things can and should be done.

Obama’s Global Problem-Solving Agenda

In this regard, President Obama is in agreement with, among others, the Brookings Institution’s *Managing Global Insecurity* (MGI) project.⁷ The

4 Cf. Barack Obama, *Dreams from My Father: A Story of Race and Inheritance*, New York 2004 (first published in 1995).

5 Cf. Frantz Fanon, *The Wretched of the Earth*, New York 1968.

6 Cf. Samuel P. Huntington, The Clash of Civilizations? In: *Foreign Affairs* 3/1993, pp. 22-49; idem, *The Clash of Civilizations and the Remaking of World Order*, New York 1996.

7 Cf. Managing Global Security/MGI, *A Plan for Action. A New Era of International Cooperation for a Changed World: 2009, 2010, and Beyond*, September 2008, at: http://www.brookings.edu/~media/Files/rc/reports/2008/11_action_plan_mgi/11_action_plan_mgi.pdf; The Brookings Institution, *A Plan for Action: Renewed American leadership and International Cooperation for the 21st Century*, Washington, DC, 20 November 2008, at: http://www.brookings.edu/events/2008/~media/Files/events/2008/1120_mgi/20081120_mgi.pdf.

MGI project stresses that “global problems require global solutions”. Subsumed under this radical shift from the policies of President George W. Bush is the belief that “national interest has become global interest”. Conversely, “global interest is national interest”. As Obama has said, “we are *all* in this together”. This implies inclusivity of voices, especially the voices of those who have never been heard, who tend to be marginalized, disrespected, oppressed, and even killed – a major component of the genesis of terrorism. The efforts of the G20 – recently expanded from the G7/8 and now including the BRIC countries (Brazil, Russia, India, and China) and several others and accounting for some 85 per cent of global economic activity – in mobilizing global efforts to counter the current financial crisis reflects this recognition of a “*new realism*”.

Implied here is a need for *global governance* (not “government”), where representatives of states, international governmental organizations, non-governmental organizations, indigenous peoples, religion, the business world, media, and others come together to listen to each other *respectfully* as they brainstorm solutions to complex global problems (e.g. the abject poverty of “The Bottom Billion”).⁸

Implicit here is also the necessity to change traditional mindsets, to undergo a “paradigm shift”, or develop a capacity to “think outside the box”.⁹ One of President Obama’s distinguishing characteristics is a capacity to motivate people to make the sometimes painful journey from zero-sum *Realpolitik* and its accompanying “security dilemmas”¹⁰ to a more positive-sum, global problem-solving worldview and plan of action.

Obama also believes that there is still a need for American leadership in the world, not as the hegemon – the “new Rome” – characteristic of President George W. Bush’s neoconservative, muscularly unilateralist America, but as a leader “*by example*” and source of resources in joint efforts to tackle pressing global issues (e.g. by providing airlift capacity to an EU peace operation in Africa).

Obama’s Foreign Policy Goals

In July 2008, then presidential candidate Obama delivered his first foreign policy speech at the Ronald Reagan Building in Washington, DC, indicating that, as president of the United States, he would focus on five primary issues:¹¹

8 Cf. Paul Collier, *The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done About it*, Oxford 2007.

9 Thomas S. Kuhn, *The Structure of Scientific Revolutions*, Chicago 1972.

10 Cf. John H. Herz, Idealist Internationalism and the Security Dilemma, in: *World Politics* 2/1950, pp. 157-180.

11 Cf. Obama’s Remarks on Iraq and Afghanistan, in: *New York Times*, 15 July 2008, at: http://www.nytimes.com/2008/07/15/us/politics/15text-obama.html?_r=1.

1. Ending, responsibly, the war in Iraq.
2. Dealing more effectively with Al-Qaeda and the Taliban in Afghanistan and Pakistan.
3. Preventing WMD from falling into the hands of terrorists.
4. Breaking America's dependence on foreign (e.g. Middle Eastern) oil and, in the process, undermine the escalating trajectory towards global warming.
5. Forging regional and global partnerships to deal with other pressing issues (e.g. the Israeli-Palestinian conflict).

Each of these goals has a bearing on security elsewhere in the world. For instance, in Asia, where the rising BRIC powers of India and China are located,¹² ending the war in Iraq would deprive that theatre of operations of its allure to global Jihadists as a basis for further recruitment, training, experience, and expansion of the "civilizational clash". By dealing effectively with Al-Qaeda and the Taliban in Afghanistan and Pakistan, President Obama would be closing down further sources of inspiration, recruitment, and training for Jihadists, including those who might be drawn from, and return to countries in Asia.

By preventing WMD from falling into the hands of terrorists through underground networks such as those established by the "Father of the Islamic Bomb", Dr Abdul Qadeer Khan of Pakistan, Obama would be reducing the likelihood that, for example, a nuclear device might be used against an American city – an operation a Saudi Wahhabist cleric has given permission to Osama bin Laden to conduct¹³ – or any other city (e.g. London, Madrid, Paris, Manila, Bangkok, Kuala Lumpur, Singapore).

Breaking America's dependence on Middle Eastern (especially Saudi) oil would reduce the level of indirect support for Saudi Jihadists such as Osama bin Laden and, earlier, the fifteen Saudis among the nineteen young men who perpetrated the 9/11 attacks, as well as support for operations in, among other regions, Asia (e.g. Mumbai). Further, by dealing effectively (and finally!) with the Israeli-Palestinian conflict – *the primary driver of global terrorism* – there should be a reduction in the worldwide frequency and intensity of terrorism.

In his article on "Renewing American Leadership" in the July/August 2007 issue of *Foreign Affairs*, then presidential candidate Obama said:

12 Cf. Kishore Mahbubani, *The New Asian Hemisphere: The Irresistible Shift of Global Power to the East*, New York 2008; Fareed Zakaria, *The Post-American World*, New York 2008.

13 Cf. Douglas Frantz/Catherine Collins, *The Nuclear Jihadist: The True Story of the Man Who Sold the World's Most Dangerous Secrets and How We Could Have Stopped Him*, New York 2007, pp. xi-xii, 263-265; Dafna Linzer, The World After 9/11. The Nuclear Threat: Nuclear Capabilities May Elude Terrorists, Experts Say, in: *Washington Post*, 29 December 2004, pp. A1 and A6.

As we strengthen NATO, we must build new alliances and partnerships in other vital regions. As China rises and Japan and South Korea assert themselves, I will work to forge a *more effective framework in Asia* that goes beyond bilateral agreements, occasional summits, and ad hoc agreements, such as the six-party talks on North Korea. We need *an inclusive infrastructure with the countries of East Asia* that can promote stability and prosperity and help confront transnational threats from terrorist cells in the Philippines to Avian flu in Indonesia. I will encourage China to play a responsible role as a growing power – to help lead in addressing the *common problems of the twenty-first century*. We will compete with China in some areas and cooperate in others. *Our essential challenge is to build a relationship that broadens cooperation while strengthening our ability to compete.*¹⁴

Exactly one year later in 2008, when Obama articulated his five foreign policy objectives, he said:

It's time to strengthen *our partnerships* with Japan, South Korea, Australia and the world's largest democracy – India – to create a stable and prosperous Asia. It's time to engage China on *common interests like climate change*, even as we continue to encourage their shift to a more open and market-based society.¹⁵

Clearly, President Obama – who, by background, philosophy, and temperament may be America's "first Asian President" – intends to work with the countries of East Asia to develop new infrastructure to deal with the problems of the region. Such infrastructure could be based upon existing institutions and mechanisms such as the Association of Southeast Asian Nations (ASEAN), ASEAN+3 (China, Japan, and the Republic of Korea), the ASEAN Regional Forum (ARF), and/or the six party talks on North Korea.¹⁶

Whatever else he does, Obama will take into account voices from the region. Among those is Kishore Mahbubani, former Ambassador of Singapore to the United Nations and Dean of the Lee Kuan Yew School of Public Policy at the National University of Singapore. Ambassador Mahbubani is also a member of the International Advisory Group for the Brookings Institution's MGI project. His reaction to Obama's electoral victory includes the sentiment:

14 Barack Obama, *Renewing American Leadership*, in: *Foreign Affairs* 4/2007, pp. 2-16, here: p. 12 (emphasis added).

15 Obama's Remarks on Iraq and Afghanistan, cited above (Note 11; emphasis added).

16 This last is Australian Prime Minister Kevin Rudd's preference, cf. *Australia Calls for North East Security Structure*, Australian Broadcasting Corporation (ABC) Online, 1 April 2008, at: www.abc.net.au/ra/programguide/stories/200804/s2205306.htm.

In the coming Asian century, America will have to give priority to the Pacific *over* the Atlantic. The G-8, NATO and the Organization for Economic Cooperation and development are organizations of the past. *The future lies in Asia*. Would Obama travel more across the Pacific *or* the Atlantic?¹⁷

Given all that we know about Obama, the simple answer is that his policies will embrace Asia *and*, according to Fareed Zakaria, “The Rest” as well.¹⁸ This clearly includes Europe, the space within which the European Union, Council of Europe, and NATO as well as the OSCE operate. All of them are potential models for helping to develop infrastructure for complex problem-solving in Asia. Indeed, the OSCE has already been viewed in this light by OSCE Partners for Co-operation Japan and the Republic of Korea.¹⁹

The European Union as a Model of Global Governance

As implied in the Brookings Institution’s MGI project, the European Union could provide a model of global governance that can be used to help upgrade existing institutions and mechanisms in Asia and elsewhere. The EU’s thirty year formal relationship with ASEAN may make this more rather than less of a probability. For example, at the conference at which the MGI’s *Plan for Action* was presented, Brookings’ president Strobe Talbott said:

The European Union is the most impressive, accomplished, and promising experiment in transnational governance on the planet today, and that has been immensely good for the half billion or so people of Europe. It has taken a huge swath of real estate, which is as bloodied as any on the planet historically, a region of the world where there was a major war every generation from the 17th century on up to the E-day, and turned it into a zone of peace. No mean accomplishment.²⁰

17 Kishore Mahbubani, cited above (Note 12; emphasis added).

18 Fareed Zakaria, cited above (Note 12).

19 Cf. Organization for Security and Co-operation in Europe/Institute of Foreign Affairs and National Security/Ministry of Foreign Affairs and Trade of the Republic of Korea, OSCE-IFANS/MOFAT Workshop, *Applicability of OSCE CSBMs in Northeast Asia Revisited*, Seoul, 22-23 September 2003, Consolidated Summary, PC.DEL/1321/03, 6 November 2003; OSCE, Office of the Secretary General, Section for External Co-operation, *2005 OSCE-Korea Conference on new security threats and a new security paradigm, Seoul, 25 and 26 April 2005, Consolidated Summary*, SEC.GAL/106/05, 13 May 2005, at: http://www.osce.org/secretariat/item_6_9758.html.

20 The Brookings Institution, *A Plan for Action*, cited above (Note 7), p. 63.

Following Talbott's remarks, Javier Solana commented:

I think the European Union is the best example today of how [we] can begin to resolve [the] contradiction [between the global and the local]. [...] Therefore, the [EU] is a model which is good for us, and I think it will be good for others, and that's why other parts of the world are beginning to [understand] the European Union as a model [e.g. ASEAN].²¹

However, at a time when the European Union, like states and other actors in the global system, is under assault by the worst economic and financial crisis since the Great Depression, framing the EU in this positive light may be, at best, idealistic and at worst, disingenuous, especially since the EU, like others, is tilting, more and more, towards dangerous, lose-lose protectionism:

José Manuel Barroso, the President of the European Commission, says this resurgence of economic nationalism is not a "specifically European" problem. He is right. Protectionism is on the rise everywhere from Washington to Delhi.

Yet if Europe, with its deep experience of shared interests, cannot resist the pressures, how can it expect others to uphold open markets?²²

The stress on the EU is certainly real:

The risk now is that, as the recession deepens, popular disturbances become self-sustaining: that a defensive move here fans the embers of nationalism there; that the single market unravels. The newer democracies of the Union in eastern and central Europe are particularly vulnerable.²³

Germany's former foreign minister Joschka Fischer has gone further, arguing that not only is Europe "at the beginning of a huge world crisis that will put [it] under extreme pressure and strain", but:

that the fallout from the economic crisis will undermine if not destroy, the extraordinary achievement of EU enlargement that brought eastern and western Europe together. [The crisis] could also threaten the single market.²⁴

21 Ibid., p. 68.

22 Philip Stephens, Wanted: Leaders to Confront the Demons of Europe's Past, in: *Financial Times*, 20 February 2009, p. 9.

23 Ibid.

24 Joschka Fischer, cited in: Quentin Peel, EU champion takes fright in flight to protectionism, in: *Financial Times*, 27 February 2009, p. 4.

Despite these risks in the short to middle-term, however – which are remarkably similar to the failure of the Socialist Second International to prevent World War I²⁵ – the EU remains a viable model for regional governance elsewhere and ultimately, global governance as well, because of its impressive status as the only viable candidate for Immanuel Kant’s “perpetual peace” system anywhere on the planet.²⁶ This singular uniqueness of the EU explains its relationship to the MGI project, which has Javier Solana, the EU’s High Representative for the Common Foreign and Security Policy, as an Advisory Group Member. According to Solana:

The aim of the MGI project is ambitious and urgent: to launch a new reform effort for the global security system in 2009 [...] for the global system is in serious trouble. *It is simply not capable of solving the challenges of today.* You all know the list: terrorism, nuclear proliferation, climate change, pandemics, failing states [...] *None can be solved by a single government alone.*²⁷

This is also the view of US Secretary of State Hillary Rodham Clinton, who represents the official foreign policy voice of President Barack Obama’s approach to global problem-solving. During her first trip abroad as Secretary of State, which – in recognition of recent shifts in economic power from West to East – was to Asia, Secretary Clinton remarked that the purpose of her trip was “to create networks of partners in order to deal with the problems that no nation, even ours, can deal with alone”.²⁸

The European Commission’s John McClintock attributes this global problem-solving deficit and incapacity to the absence of appropriate global governance based on the “*shared sovereignty*” principle exemplified by the European Union.²⁹ Interestingly, the MGI project talks about “*responsible sovereignty*” which appears to be on a continuum leading eventually to shared responsibility:

The MGI Project’s consultations have informed and validated the view that a new era of international cooperation should be built on the principle of *responsible sovereignty*: the idea that states must take responsi-

25 Cf. Kenneth N. Waltz, *Man, the State, and War: A Theoretical Analysis*, New York 1959, Ch. 5.

26 Cf. Immanuel Kant, *Perpetual Peace: A Philosophical Sketch* (1795), in: Immanuel Kant, *Perpetual Peace, and Other Essays on Politics, History, and Morals*, Cambridge, MA, 1983.

27 MGI, *A Plan for Action*, cited above (Note 7), p. 7 (emphasis added).

28 US Secretary of State Hillary Rodham Clinton, cited in: Glenn Kessler/Blaine Harden, Clinton, in Asia, Seeks to Build “Networks of Partners”, in: *Washington Post*, 17 February 2009, p. A8.

29 Cf. John McClintock, *The Uniting of Nations: An Essay on Global Governance*, Brussels 2008; Mark Corner *Towards a Global Sharing of Sovereignty*, European Essay No. 44. The Federal Trust for Education and Research, London 2008.

bility for the external effects of their domestic actions – that sovereignty entails obligations and duties towards other sovereign states as well as to one’s own citizens. To protect national security, even to protect sovereignty, states must negotiate rules and norms to guide actions that reverberate beyond national boundaries. Responsible sovereignty also implies a positive interest on the part of powerful states to provide weaker states with the capacity to exercise their sovereignty responsibly – a *responsibility to build*.³⁰

Among the current contenders for global governance, in addition to a radically reformed United Nations, are the “*League of Democracies*”,³¹ “*Concert of Democracies*”,³² “*Union of Unions*”,³³ and “*Global Union of Democracies*”.³⁴

The MGI project found few supporters for either the “League of Democracies” championed by Senator John McCain during the 2008 presidential campaign or the “Concert of Democracies” in its consultations with concerned, relevant individuals in Africa, Asia, Europe, Latin America, or the Middle East. Among other problems, the League or Concert

would alienate China, whose cooperation is essential for progress across other areas of shared interest, such as climate change, terrorism and nonproliferation. Instead of building on international convergence, MGI interlocutors in China said such a concept could form the basis for a second Cold War. Policymakers in India argued that such a club would heighten, not reduce, international insecurity by creating divisions rather than unifying nations, while officials from other key states allied with the [US] privately underscored that such an institution would be counter-productive, especially by isolating China.³⁵

30 MGI, *A Plan for Action*, cited above (Note 7), p. 11 (emphasis in original).

31 Cf. Robert Kagan, *The Return of History and the End of Dreams*, New York 2008.

32 Cf. Anne-Marie Slaughter/John Ikenberry, Democracies Must Work in Concert, in: *Financial Times*, 10 July 2008, at: www.ft.com/cms/s/0/fd9e2fdc-4e7f-11dd-ba7c-000077b07658.html.

33 Cf. Mark Leonard, *Why Europe Will Run the 21st Century*, New York 2005.

34 Cf. John McClintock, cited above (Note 29); Mark Corner, cited above (Note 29).

35 MGI, *A Plan for Action*, cited above (Note 7), here: p. 22. The isolation of China is less likely for the Concert than for the League. According to the Concert’s architects, Anne-Marie Slaughter and John Ikenberry, “a Concert of Democracies that included southern as well as northern democracies would insist on including China in any expansion of the G8. That fact highlights the contrast between our Concert and Senator McCain’s proposal of a League of Democracies, together with the expulsion of Russia from the G8. Democracies understand the need to have effective global institutions that include *all* important powers.” Anne-Marie Slaughter/John Ikenberry, cited above (Note 32). Although Kagan (cited above [Note 31], pp. 97-105) refers both to “Concert” and “League”, and his formulation is similar in many respects to that of Slaughter and Ikenberry, he is nevertheless much closer to Senator John McCain’s vision of a League which envisages a “balance of power” between democratic and autocratic countries, with China and Russia remaining in the latter category for some time to come.

Indeed, as then Senator Obama indicated earlier, one of his major foreign policy objectives would be to forge a constructive partnership with China to deal with complex global problems such as global warming and, more recently, the global economic recession. This “strategic dialogue”, which was on the agenda for further articulation by President Obama and Chinese President Hu Jintao at the G20 Summit that met in London in April 2009, was launched during Secretary of State Clinton’s trip to China in late February 2009. Although upsetting human rights activists for not emphasizing the need for China to significantly upgrade its compliance with international human rights norms, as she had when she was first lady during the presidency of her husband, Bill Clinton, Secretary Clinton said that “human rights concerns ‘can’t interfere’ with pressing China for greater cooperation on the economic front, the environment and the impasse over North Korea’s nuclear program”.³⁶

Since China has recently eclipsed the US “as the world’s biggest emitter of harmful gases”,³⁷ Secretary Clinton is reflecting not only the foreign policy positions that President Obama stated prior to his inauguration, but his pragmatism as well. Clearly, given that policymakers around the globe have less than ten years to reverse the problem of global warming, lest “species extinction” become a viable outcome, working with China on this problem now rather than alienating it because of its poor human rights record and other democracy deficits makes for a compelling argument. In the meantime, human rights concerns will not be forgotten, merely located appropriately within a comprehensive universe of pressing global concerns with shifting priorities. Responding to her human rights critics during a news conference with Chinese Foreign Minister Yang Jiechi, Secretary Clinton commented: “The promotion of human rights is an essential aspect of U.S. global policy.”³⁸ After the completion of Secretary Clinton’s Asia tour, Todd Stern, President Obama’s special envoy on climate change, summed up the shifting human rights-global warming relationship:

In our view, nothing is more important for dealing with [the global warming] threat than a U.S.-China partnership. There is no way to preserve a safe, livable planet unless China plays a very important role along with the [U.S.]. This is not a matter of politics or morality or right or wrong. It is simply the unforgiving math of accumulating emissions.³⁹

So, if neither a League nor a Concert of Democracies is a viable approach to global governance in the post-9/11 world, what about the remaining two op-

36 US Secretary of State Hillary Rodham Clinton, cited in Kessler, cited above (Note 28).

37 Ibid.

38 Ibid.

39 Ibid.

tions: Mark Leonard's concept of a "Union of Unions" or John McClintock's "Global Union of Democracies"? The "Union of Unions" represents an *inductive* approach to global governance: Given that the EU has been proposed as a model of regional integration based on shared sovereignty, other regional actors (e.g. ASEAN, African Union/AU) would emulate the model and, at the end of the process, link up synergistically in an overarching "Union of Unions". By contrast, the "Global Union of Democracies" is more of a *deductive* approach: It would also employ the EU as a model, but to create the Global Union at the outset, comprising the EU and other actors, primarily states, and not very powerful ones initially. Once it became clear that the Global Union was effective in addressing complex global problems such as global warming and poverty, other nations would follow suit. Once more than two nations joined from the same region, they would start to comprise a regional actor eventually analogous to the EU. The Global Union would then grow into something tantamount to a "Union of Unions".⁴⁰

My own preference is to combine the inductive with the deductive; i.e. to advance the Global Union of Democracies as the ultimate objective. As Charles Sanders Peirce reminds us, however, we have to start "from where we are"⁴¹ and concentrate on regional integration as a basis for global governance. That way, we can "creatively engineer" responsible sovereignty into shared sovereignty. The Brookings Institution's MGI project, therefore, seems to be an excellent platform for advancing the global governance component of President Obama's foreign policy agenda.

The Fly in the Ointment

The primary "outlier" in this otherwise "conflict resolution-friendly" portrait of President Obama is his approach to the war in Afghanistan. As he draws down US troops in Iraq, he will send them to Afghanistan to deal with the resurrected Taliban insurgency there. In addition, he is continuing Predator

40 As to whether a Global Union of Democracies might also alienate China, given that members must be democracies, McClintock (cited above [Note 29], p. 206) indicates that China (as well as Russia) "would have to become less authoritarian and to be prepared to better accommodate the wishes of ordinary people in the decisions of the state". Despite its lingering human rights record, evident even during the Beijing Olympics, China has made great strides in achieving one component of an *eventual* democracy: economic growth. In this regard, World Values Survey and European Values Study researchers Ronald Inglehart and Christian Welzel point out that: "Beneath China's seemingly monolithic political structure, the social infrastructure of democratization is emerging, and it has progressed further than most observers realize. China is now approaching the level of mass emphasis on self-expression values at which Chile, Poland, South Korea, and Taiwan made their transitions to democracy." Ronald Inglehart/Christian Welzel, *How Development Leads to Democracy. What We Know About Modernization*, in: *Foreign Affairs*, March/April 2008, pp. 33-48, here: p. 48.

41 Charles Sanders Peirce, cited in: Abraham Kaplan, *The Conduct of Inquiry: Methodology for Behavioral Science*, San Francisco 1964, p. 86.

drone attacks on suspected Taliban targets in Pakistan, including during his very first week in office, causing a number of casualties, perhaps including children.⁴²

This concern is valid, but if we examine President Obama's Afghan policy in the larger framework within which it has been articulated, it may be put to rest. This larger framework is compatible with a conceptual device that I call the "*three levels of conflict reality*": (1) conflict as *symptoms*; (2) conflict as underlying fractured *relationships* that give rise to symptoms; and (3) conflict as underlying *deep-rooted causes* and conditions of the fractured relationships that give rise to symptoms.⁴³

Obama's framework for Afghanistan, which corresponds to Secretary of State Hillary Clinton's "three legs to the stool of American foreign policy" – *defence, diplomacy, and development* – includes (1) more troops (*defence*) to deal with conflict as symptoms; (2) more *diplomacy* to deal with fractured relationships which give rise to the symptoms; and (3) more *development* to deal with the underlying deep-rooted causes and conditions of the fractured relationships.⁴⁴

This reorientation of US policy reflects the sentiments of General (Dr) David Petraeus, whose CENTCOM responsibilities include Afghanistan and Iraq and who co-wrote the US military's new guidelines on counterinsurgency, according to which "you can't kill or capture your way out of a complex, industrial-strength insurgency".⁴⁵

What this means is that Obama's defence-based "surge" into Afghanistan (*symptoms*) must occur within a more comprehensive framework inclusive of diplomacy (*relationships*) and development (*deep-rooted causes*). The balance of the shifting investments and prioritization across these three inter-related components of his foreign policy "stool" will determine whether Obama's conflict resolution promise remains intact or comes under significant challenge.

Conclusion

If the "goodness-of-fit" between the Obama presidency and the EU is powerful, then so, by extension, is that between Obama and the OSCE. Together

42 Cf. Tim Reid, President Obama "orders Pakistan drone attacks", in: *TimesOnline*, 23 January 2009, at: http://www.timesonline.co.uk/tol/news/world/us_and_americas/article5575883.ece.

43 Cf. Dennis J.D. Sandole, *Peace and Security in the Postmodern World: The OSCE and Conflict Resolution*, New York 2007; idem, *Peacebuilding: Preventing Violent Conflict in a Complex World*, Cambridge, UK (forthcoming).

44 Cf. Hillary Rodham Clinton, *Arrival at the Department of State: Remarks to Department Employees at Welcome Event*, US Department of State: Diplomacy in Action, 22 January 2009, at: www.state.gov/secretary/rm/2009a/01/115262.htm.

45 The General's Next War: The FP Interview with Gen. David H. Petraeus, in: *Foreign Policy*, January/February 2009, pp. 48-50.

with the EU and NATO, the OSCE comprises the security architecture of Europe. Indeed, all three, together with the Council of Europe, capture the three “baskets” of European security outlined in the Helsinki Final Act,⁴⁶ and subsequently reframed by the OSCE as the three interrelated components of *comprehensive security*:

- Basket 1: Political and Military (NATO);
- Basket 2: Economic and Environmental (EU); and
- Basket 3: Human rights and humanitarian elements (Council of Europe) of comprehensive security.⁴⁷

Obama is made to order for the OSCE, for the simple but compelling reason that both are concerned with the achievement of *common security* through *soft power* means.⁴⁸ This is why Obama has been awarded the Nobel Peace Prize for 2009.⁴⁹ The most powerful man in the world has made it acceptable to “unclench his fist”, reach out and talk to adversaries as well as allies about pressing global issues, in the process, creating a culture of conflict resolution and problem-solving. Although this has not yet led to breakthroughs in relations with Iran, North Korea, and between Israel and Palestine, it may have played a small role in OSCE members Turkey and Armenia’s use of “soccer diplomacy” to bring about their recent decision – in which Secretary of State Clinton played a role – to reopen their borders and establish a historical commission to finally lay to rest the 1915 genocide issue.⁵⁰ This historic development, still plagued by significant obstacles, may facilitate the resolution of a major “frozen conflict” which the OSCE’s Minsk Group, comprising France, Russia, and the US, has been responsible for mediating – the conflict between OSCE members Armenia and Azerbaijan over the status of the Armenian enclave in Azerbaijan, Nagorno-Karabakh.⁵¹

In view of President Obama’s considerable promise on the foreign policy front, buttressed by the Nobel Peace Prize and Turkish-Armenian breakthrough in a conflict that is nearly a hundred years old, with the implications it has for the future work of the OSCE, it would be a tragedy of epic proportions if Obama were to fall as a casualty in the “Culture Wars” cur-

46 Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 141-217, available online at: http://www.osce.org/documents/mcs/1975/08/4044_en.pdf.

47 Cf. Sandole, *Peace and Security in the Postmodern World*, cited above (Note 43), Ch. 3.

48 Cf. Joseph S. Nye, Jr., *Soft Power: The Means to Success in World Politics*, New York 2004.

49 Cf. The Norwegian Nobel Committee, *The Nobel Peace Prize for 2009*, Oslo, 9 October 2009, at: http://nobelprize.org/nobel_prizes/peace/laureates/2009/press.html

50 Cf. Turkey, Armenia to Reopen Border, in: *The Wall Street Journal*, 11 October 2009, at: <http://online.wsj.com/article/SB125518039736978131.html>.

51 Cf. Organization for Security and Co-operation in Europe, *Minsk Process: Basic Documents*, Vienna 2009, at: <http://www.osce.org/item/21979.html>.

rently being waged in the United States over, among other issues, health care reform.

In the interests of common security, therefore, whatever “reasonable people” in Europe, Asia, Africa, the Middle East, the Americas, and elsewhere can do to prevent this calamitous outcome and America’s return to the “Dark Ages” of the previous administration, they should do. There are ample opportunities for such global coalition building in the G20, EU, OSCE, NATO, UN, WTO, and other settings, including the business sector and civil society, where a culture of conflict resolution and problem solving is a necessary condition for the solution of interrelated complex global problems such as global warming, WMD proliferation, North-South inequities, poverty, economic breakdown, terrorism, and H1N1 and other pandemics.

Obama and the American voter have moved us in the right direction thus far, and now it is up to the rest of us to keep the train on the tracks.

The OSCE and European Security – A Lithuanian Perspective

Remarks on the Nature of the OSCE

From its very inception, the CSCE/OSCE process has been the subject of differing interpretations of its political nature and objectives. Some viewed it as a visible manifestation of political détente in the East-West confrontation of the Cold War, a Vienna Congress-type pan-European arrangement reflecting a new consensus on the balance of power and spheres of influence; others saw it as a kind of multilateral pact under which the Soviet Union and its satellites, at least on paper, recognized the importance of basic Western values with regard to fundamental human rights and freedoms of the individual. Yet others treated it as a final political and moral recognition of the Soviet Union and the status quo that emerged after the end of the World War II.

Each of those interpretations might have elements of truth, because it is in the nature of the process that it consists of different stages and that different aspects have prevailed in the course of its development.

But having said this, what is the OSCE today? I would rather first say what it is not. I strongly believe that the OSCE is not about the balance of power. And nor should it be.

From the Helsinki Final Act through the Charter of Paris and the Charter for European Security signed at the Istanbul Summit, the OSCE has come a long way. However, it has never lost the key strength contained at its core, namely its principles and values. Indeed, the OSCE is about values and principles that all OSCE participating states recognize as being the foundation on which the relations between the states and the peoples belonging to the OSCE community should be based.

This means that we – all participating States – have undertaken a commitment to defend these values and observe these principles while organizing and developing our societies and building inter-state relations.

It also means that we are accountable to each other, that our performance, be it the functioning of our democratic institutions and internal political processes, or our behaviour in the international arena, are the subject of legitimate peer review by our fellow OSCE states.

We therefore all acknowledge that there is a set of objective standards – if you want, a higher reality – by which all our decisions and actions should be measured or judged. And this is precisely the essence of the OSCE.

But if principles and values are the essence, what about acting or making a difference? Yes, the OSCE is also about common decisions and action, but in this regard the OSCE – being a consensus-based Organization – is only

as strong as its lowest common denominator, or as some may say – its weakest link.

Nevertheless, when it comes to political dialogue among participating States, no matter how difficult it may be, the OSCE can never fail to show its strength and unique position in the European security architecture. It is important to emphasize the fact that the OSCE comprises 56 participating States, encompassing three continents – North America, Europe, and Asia – and more than a billion people. The OSCE brings together nations with different cultural traditions and political ambitions, varying social and economic backgrounds, and sometimes painful historical memories. Nonetheless, the fact is that they were able to make a joint commitment in favour of shared values and principles. This is not a minor achievement – it is something we believe should be cherished, preserved, and further strengthened.

Democratic freedoms, human rights, the peaceful settlement of disputes, respect for sovereignty, territorial integrity, the political independence of states – these are the values and principles for which the OSCE stands. These are the principles that are essential for preservation of peace, security, and the freedom of nations and individuals.

Above all, the concept of comprehensive security is at the core of OSCE. It underpins all the activities of this Organization in its three dimensions – the politico-military, the economic and environmental, and the human. The OSCE concept of comprehensive security and its cross-dimensional approach are indispensable assets, and are valued as such by my country.

Security Challenges and the Role of the OSCE

Today we are trying to reflect upon challenges to European security, and to devise ways to tackle them jointly, including through the OSCE.

In doing this, we cannot afford to be complacent; there are serious security challenges in the OSCE area.

In the first OSCE dimension, encompassing politico-military issues, the most visible problems have to do with ongoing protracted conflicts, and with unfortunate developments in the field of arms control.

The tragic events of the last year, when some fundamental principles of the Organization were flagrantly violated, speak for themselves. The war in Georgia has shown once again that protracted conflicts pose a great danger to the security and stability of the OSCE area. It has shown how quickly a situation that had long been perceived as “frozen” can become dangerously “unfrozen”. The most negative consequence of the military conflict in Georgia is human suffering: It produced thousands of internally displaced persons as well as grave humanitarian problems that are very difficult to tackle immediately. However, a no less important consequence is that this conflict greatly contributed to the lack of trust that continues to be an issue among the

OSCE participating States. We see how difficult it is to restore lost confidence, especially when one participating State obviously lacks the political will to adhere to the OSCE's principles and commitments by making constructive moves that eventually could help rectify the injustice done.

The problems in the field of arms control were caused by the decision of the Russian Federation to suspend the implementation of the CFE Treaty. The CFE serves as a cornerstone of European security and had helped to ensure a peaceful transformation in Europe after the end of the Cold War. Lithuania stands ready to support all constructive efforts aimed at the preservation and further strengthening of this valuable instrument of security and confidence in Europe. Even as a non party to the CFE treaty, my country, being a NATO member, has been and will continue to be involved in the future discussions on arms control and CSBMs as they evolve.

The second OSCE dimension – dealing with economic and environmental aspects of security – has a major confidence-building potential. We believe that more active engagement in the resolution of the protracted conflicts in Georgia, Moldova, and Nagorno-Karabakh could bring positive results. The OSCE is already involved in water resources management and radioactive waste-disposal activities in Central Asia. There are further possibilities for more result-oriented initiatives.

Lithuania believes that the matter of energy security could receive more prominence on the OSCE agenda. We also support discussions of the security implications of climate change as well as potential security threats stemming from the financial and economic crisis in the OSCE area.

Lithuania attaches particular importance to the OSCE human dimension. Democratization, the rule of law, human rights and fundamental freedoms, and elections are the objects of the core commitments that all OSCE participating states have undertaken in this dimension. The *acquis* of this dimension should be consistently preserved and actively promoted in the whole OSCE area. However, full implementation of human rights commitments remains a constant challenge. Some negative trends, such as increasing violence against journalists, call for resolute action on the part of our Organization.

I would also like to stress the importance of the OSCE field operations and institutions. They have a special value to the OSCE, as they help countries in transition to become functioning, stable, and secure democracies. In this context, we were dismayed and disappointed by the Russian Federation's blocking of the consensus on a status-neutral proposal to retain the OSCE presence in Georgia. We believe that we all need more, not less of the OCSE in South Caucasus.

The current discussions on the future of security in Europe have been promoted by Russia. Starting from June 2008, Russia has repeatedly claimed that the security situation in Europe and the whole Euro-Atlantic area is deteriorating and that, in order to improve it, there is a need to revisit the whole European security architecture by creating a new legally binding European Security Treaty.

We were and remain unconvinced by these ideas as, *first*, they distrust the existing security architecture. *Second*, we are concerned that this initiative seems to reject the main OSCE principles and remains extremely vague and evasive with regard to our common values and the implementation of commitments undertaken. Therefore, we need first to dispel all doubts as to the real intentions behind these proposals before we could start considering what contribution they might make towards strengthening our common security throughout the OSCE area.

Enhanced Euro-Atlantic security is in all our interests. For Lithuania, the transatlantic link, working closely with the US, is essential. Russia also has an important role to play. Lithuania remains open to discussions on Euro-Atlantic security with Russia, including on tackling new threats and challenges.

NATO, the European Union, the OSCE, and the Council of Europe proved to be the cornerstones of European security and stability for decades. Where we have concerns is in relation to the fact that not all commitments and obligations are being implemented by some participating States. Instead of trying to create artificial legally binding instruments or documents, wouldn't we be better off beginning by focusing our attention and efforts on improving the implementation of existing commitments?

The current security architecture (organizations, commitments, and principles) has served us well. As part of the Euro-Atlantic community, Lithuania is open to exploring ways to further strengthen and reinvigorate the existing structures. And in this context, the OSCE can serve as an effective forum for discussions of European security (in all three dimensions) with due focus on implementation of our commitments. Differing perceptions of security should not preclude the search for common solutions, if we remain committed to the shared OSCE values and principles.

Lithuania therefore welcomes the Corfu dialogue as designed by the Greek OSCE Chairmanship and will engage constructively. We hope the Corfu Process will help us restore confidence and trust. We very strongly believe that strengthening the existing OSCE *acquis* and further promoting the implementation of OSCE commitments should be a key focus of such discussions. In this context, crisis management – including early warning, conflict prevention and resolution, and post-conflict rehabilitation – should remain at the core of the OSCE's work together with the promotion of human rights

standards across the OSCE area. The resolution of protracted conflicts, in our view, should also remain a key priority.

At the same time, while trying to set concrete goals and objectives for this discussion, we should be aware of the objective limitations of our Organization, which arise from the consensus principle. We may need time if we decide to enter into open and candid dialogue, which we hope can be instrumental in reducing the current gap of trust that exists between some participating States.

Lithuania wants an inclusive, transparent, and open-ended discussion. The present Euro-Atlantic framework, including the Helsinki *acquis*, is central to our security. We should not prejudge the outcome of this debate, nor impose artificial timelines.

We look forward to contributing to the debate, as we believe that in order to respond to current security problems in OSCE area we need to:

- restore confidence and trust;
- improve implementation of commitments;
- resolve protracted conflicts;
- give new impetus to arms control (and regimes for the non-proliferation of weapons of mass destruction);
- strengthen conflict-prevention and crisis-management efforts;
- reinvigorate promotion of the human dimension, including democracy and human rights;
- strengthen capacities to respond to new threats and challenges, (transnational threats) e.g. those arising from climate change, environmental degradation, scarcity of water, cyber-crime, piracy, etc;
- strengthen energy security in Europe.

Here the OSCE can play an extremely useful role, as it is the most suitable and indeed natural forum for such a discussion. The OSCE provides not only inclusiveness, transparency, and terms of reference, it is also a political and moral yard-stick by which such a discussion could be guided and measured.

Belarus at the Crossroads?

Prospects for Co-operation with the EU, Council of Europe, and OSCE

The inclusion of Belarus in the EU's Eastern Partnership initiative in the first half of 2009 and the prospect of the restoration of the country's special guest status in the Parliamentary Assembly of the Council of Europe mark the end of Belarus's international isolation. The main reason for this isolation was the authoritarian leadership style of Alexander Lukashenko in the period since the controversial constitutional referendum of November 1996, which largely suspended the principle of the separation of powers. The Western community of states had initially attempted to bring about a return to the 1994 constitution by means of sanctions. For the OSCE, this meant above all that the House of Representatives, the new legislature formed as a result of the constitutional change, was initially prevented from taking part in the OSCE Parliamentary Assembly. Belarus continued to be represented there by members of the 13th Supreme Soviet who were opposed to the new political system, although that body had been dissolved by Lukashenko. Within the EU, the ratification of the Partnership and Co-operation Agreement was put on hold. Since 1997, there had also been a ban on contacts that ruled out high-level meetings, and technical assistance for Belarus was effectively frozen.¹ What is the cause of the apparent about-turn in relations between Belarus and the European organizations? And what domestic political consequences may be associated with the rapprochement between the Belarusian leadership and the West?

The Failure of OSCE Mediation Efforts

Even during the period of isolation, the Western community of states had repeatedly indicated its willingness for co-operation once Belarus's democratic structures were restored. The key mediation role in this initially fell to the OSCE, as Belarus was a full participating State in the Organization, while it had no formal relations with the EU or the Council of Europe. At the end of

Note: This contribution reflects the situation as of July 2009.

¹ Cf. Astrid Sahm, *Isolationärer Autoritarismus. Die innere Entwicklung in der Republik Belarus* [Isolationist Authoritarianism. Domestic Developments in the Republic of Belarus], in: Dieter Bingen/Kazimierz Wóycicki (eds), *Deutschland – Polen – Osteuropa. Deutsche und polnische Vorüberlegungen zu einer gemeinsamen Ostpolitik der erweiterten Europäischen Union* [Germany – Poland – Eastern Europe. German and Polish Preliminary Considerations on a Common Eastern Europe Policy of the Enlarged European Union], Wiesbaden 2002, pp. 179-195.

1997, an agreement with the Belarusian leadership cleared the way for the creation of the OSCE Advisory and Monitoring Group (AMG) in Minsk, which started work in February 1998. The deployment of the AMG was an innovation, as it represented the first time that an OSCE mission had been given an explicit task in the area of democratization. In addition, the OSCE was at that point in time the only international organization apart from the CIS with a presence in Minsk. As a result, the AMG was also to become an important co-ordination point for the work of the EU and the Council of Europe. This became particularly evident with the formation of a parliamentary troika consisting of representatives of the European Parliament, and the parliamentary assemblies of the Council of Europe, and the OSCE.

The AMG's mediation efforts initially appeared to be blessed with success: In the summer of 1999, an agreement was reached on an agenda for negotiations between the executive and the opposition. This was to involve the creation of four working groups, dealing respectively with the adaptation of Belarus's electoral law to OSCE standards, free access to electronic media, the observance of human rights and related confidence-building measures, and expanding the competencies of the legislature. Furthermore, at the OSCE Summit in Istanbul in November 1999, President Lukashenko made a commitment to open dialogue and authorized the release from prison of Mikhail Chigir, the former prime minister and the leading candidate in the alternative presidential elections organized by the opposition in 1999. However, when the first agreement was reached – by the working group on the media – Lukashenko refused to sign it. As a result, the OSCE-mediated dialogue between the political leadership and the opposition had to be considered a failure.²

The significant involvement of the AMG in the choice of a unified presidential candidate by the political opposition prior to the presidential elections of September 2001 ultimately triggered an open confrontation with the Belarusian leadership. As a result, in 2002, President Lukashenko arranged for the effective closure of the AMG office. In order to ensure that a new OSCE Office could open in February 2003, the OSCE had to accept considerable restrictions on its mission's authority. This included, in particular, a limit to the duration of the mandate, and the effective dependence of the Office's project work on the agreement of the Belarusian government. In addition, the Office no longer had an explicit mediation role. When the House of Representatives was admitted to the OSCE Parliamentary Assembly in February 2003, it was a further victory for the Belarusian regime. In 1999, the Organization had effectively abandoned the idea of a restoration of the

2 Cf. Rainer Lindner/Astrid Sahn, „Dialog“ ohne Dialog vor „Wahlen“ ohne Wahl? Belarus am Vorabend der Parlamentswahlen [“Dialogue” without Discussion before “Elections” without Choice? Belarus on the Eve of Parliamentary Elections], in: *Osteuropa* 9/2000, pp. 991-1003.

1994 constitution and was now concentrating its demands on reform of the constitutional situation established in 1996.³

President Lukashenko's ability to ignore the West's criticism of his authoritarian style of government and sidestep corresponding demands for democratization was crucially enabled by the special relationship between Belarus and Russia, which was reflected in the signing of treaties establishing a joint Union State. Russia also strengthened the Belarusian regime economically by charging low prices for energy and via other indirect subsidies. Thanks to economic growth made possible by Russia's assistance, the regime enjoyed a high level of support among the Belarusian population. In return, Minsk supported Russia's position in the Kosovo conflict and its opposition to NATO's eastward enlargement, while, however, resisting Russian demands for genuine integration of the two states. In effect, the Belarusian leadership used the competition between Russia and the Western states over the integration of Eastern Europe for its own benefit by taking on the role of Moscow's anti-Western outpost.⁴

EU Eastern Enlargement: A Wasted Opportunity

Since EU enlargement means that Belarus is now a direct neighbour of the Union, an increase in the engagement of EU institutions with regard to Belarus has been evident since 2003, while the OSCE Office has had to act more cautiously as a result of its new framework for activity. However, although the Belarusian leadership appeared to be interested in joining the European Neighbourhood Policy, it was not prepared to ensure participation by partially accepting the EU's political demands, as this would have implied a renunciation of its established monopoly on power and comprehensive system of control. The Belarusian leadership seemed rather to assume that Belarus's importance for the EU as a transit country meant that the latter would be dependent upon closer co-operation with Belarus regardless of the political conditions that prevailed there. This assumption rested upon the factual basis that some 60 per cent of trade between Russia and the EU passed through Belarus, and the medium-term plan to create a common economic area would not be possible without Belarus's participation.⁵

This strategy appeared to be bearing fruit, as, in the interest of securing its external frontiers, the EU co-operated with Belarusian state institutions

3 Cf. Eberhard Heyken, *Difficult Relations: The OSCE and Belarus. A Sober Report*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2006*, Baden-Baden 2007, pp. 141-152.

4 Cf. Astrid Sahn, *Integration – a Path to Self-Assertion? Relations between Belarus and Russia in the International Context*, in: *Russian Analytical Digest* 4/2006, pp. 2-4.

5 Cf. Heinz Timmermann, *Koloboks Union. Belarus und Russland am Wendepunkt? [Kolobok's Union. Belarus and Russia at the Crossroads?]*, in: *Osteuropa* 2/2004, pp. 218-227, here: p. 218.

relatively successfully in specific policy areas, such as combating illegal immigration and cross-border organized crime, and even expanded this co-operation when Belarus became its direct neighbour. The EU thereby indicated that security concerns may be placed above a value-oriented policy of conditionality. For the Belarusian leadership, co-operation in these areas had the advantage of not threatening to call into question its claim to power, but was rather quite compatible with the Belarusian President's projected self-image as a father figure and a guarantor of stability. This allowed the Belarusian leadership to develop its own policy of conditionality with respect to the EU, something that is also indicated by Lukashenko's occasional threats that Belarus could overwhelm the EU with a tide of refugees from third countries.⁶ In addition, the Belarusian regime immunized itself against the demands of the European organizations by raising accusations of double standards, which were justified in part by authoritarian developments in other post-Soviet countries that were not subject to sanctions.

The chances of the EU's pragmatic approach to co-operation being extended were hampered not least by the Belarusian constitutional referendum of October 2004, in which the restriction on the length of the President's term of office was raised. Moreover, the parliamentary elections held at the same time again failed to comply with OSCE standards, and opposition protests were violently suppressed by the security forces. The EU reacted to this – as to the 2006 presidential election, which the OSCE found had shown no signs of improvement – by again banning Belarusian politicians and officials from entering the European Union. It had already issued entry bans on those individuals who had, according to the report produced by the Council of Europe in February 2004, been involved in the disappearance of opposition politicians and independent journalists in the years 1999 and 2000. Nonetheless, these entry bans – like the economic sanctions imposed by suspending EU preferential trade status – were apparently without effect. On the contrary, in November 2004, President Lukashenko appointed Viktor Sheyman, one of the prime suspects, to head the presidential administration. The EU tried to give its political demands more force by addressing a special message to the Belarusian people in 2006 in which it attempted to outline the benefits of closer co-operation with the EU in the most promising of terms. At the same time, the EU increasingly recognized the failure of pursuing a policy of conditionality linked with attempts to politically isolate Belarus, and the lack of effective positive incentives that could encourage the leadership of Belarus, who were not interested in EU membership, to go along with EU demands.⁷

6 Cf. Alena Vysotskaya, *Russland, Belarus und die EU-Osterweiterung. Zur Minderheitenfrage und zum Problem der Freizügigkeit des Personenverkehrs* [Russia, Belarus, and EU Eastward Enlargement. On the Minority Question and the Problem of the Free Movement of Individuals], Stuttgart 2008.

7 Increasing the cost of a visa from 35 to 60 euros, which applied to Belarus uniquely among EU neighbouring states, certainly stood in sharp contrast to the EU declarations to the Belarusian people and demonstrated that, contrary to official announcements, the or-

New opportunities for action only emerged in 2007, when Russia began to raise the price it charged Belarus for energy and Belarus felt forced, after fourteen years of hard negotiations and successful delaying tactics, to sell 50 per cent of the natural gas transit monopoly *Beltransgaz* to Russia's *Gazprom*.⁸ Following the failure of Lukashenko's policy of simulated integration with Russia, the Belarusian leadership had, for the first time, an interest that was more than merely rhetorical in improving relations with the West as a means of reducing Belarus's economic and political dependency on Russia. Given the dramatic deterioration in the country's balance of trade as a result of the rise in the cost of energy imports from Russia, increasing exports to the EU became a central goal. In addition, young members of the political elite, in particular, had no interest in Belarus losing its statehood. At the same time, as a consequence of the brief interruption in the transit of natural gas via Belarus, the EU recognized for the first time Belarus's significance for the supply of energy to Western Europe. Belarus now appeared as an independent actor on the international stage and not just an appurtenance of Russia. In the wake of these events, direct contacts were resumed between the Belarusian leadership and the European Commission. In March 2008, EU Commissioner for External Relations, Benita Ferrero-Waldner, and Deputy Belarusian Foreign Minister, Valery Varanetski, finally signed an agreement on the establishment of a Delegation of the European Commission in Minsk.⁹

The increasing pressure from Russia encouraged a tangible change in the logic underlying the political actions of the Belarusian leadership. For instance, the Belarusian leadership announced for the first time that it was prepared to partially fulfil the EU's political demands in order to bring about an improvement in relations. In August 2008, the last internationally recognized political prisoner, Alexander Kozulin, a presidential candidate who had been arrested following the 2006 election, was released. At the same time, Belarus refused to comply with Russia's demand that it should recognize the independence of Abkhazia and South Ossetia. In the parliamentary elections of

dinary people were affected by sanctions that targeted the regime. Cf. Astrid Sahn, Nach der Wahl ist vor der Wahl. Belarus weiter auf Isolationskurs? [After the Election is Before the Election. Is Belarus Continuing on the Path Of Isolation?] In: *Osteuropa* 1/2005, pp. 71-90; cf. also: Delegation of the European Union to Belarus, *What the European Union could bring to Belarus*, at: www.delblr.ec.europa.eu/page3242.html.

8 For more information, see Folkert Garbe, *Energetische Integration? Russlands Energiekonflikt mit Belarus* [Energetic Integration? Russia's Energy Conflict with Belarus], in: *Osteuropa* 4/2007, pp. 65-76; Irina Točickaja, Preisschock. Die Folgen der Gaspreiserhöhung für Belarus [Price Shock. The Consequences of the Gas Price Rises for Belarus], in: *Osteuropa* 4/2007, pp. 85-92.

9 The Delegation began work immediately after the signing of the agreement, albeit with a very low number of staff. For an assessment of the agreement, see Alena Vysotskaya Guedes Vieira, *Opening the European Commission's Delegation in Minsk: Do EU-Belarus Relations Need a Rethink?* The Finnish Institute of International Affairs, Briefing Paper 18, 7 April 2008.

September 2008, however, only cosmetic changes were evident, such as the admission of representatives of the opposition parties to meetings of the Central Election Commission. In the local and regional election commissions, on the other hand, only a bare minimum of representatives of opposition parties continued to be included. And no representative of the opposition was able to gain entry to the parliament, which was elected directly by simple majority.

In contrast to previous elections, the Belarusian leadership this time reacted calmly to the fact that the EU, OSCE, and Council of Europe did not consider the election to have been free and fair. Instead, Minsk stressed almost exclusively the positive aspects of the international organizations' assessment, and even gave the Vice President of the OSCE Parliamentary Assembly, Anne-Marie Lizin, the opportunity to outline her position on state television and in conversation with President Lukashenko. For their part, the international organizations were concerned to avoid allowing the events around the parliamentary elections to lead to a return to political confrontation. Therefore, in October 2009, and with reference to the release of the political prisoners, the EU lifted the existing entry bans on members of the Belarusian political leadership, initially for a period of six months. The only exceptions were made for those office holders who were accused of involvement in the disappearance of opposition politicians.¹⁰ The EU also reduced the number of its demands from twelve to five. These now concentrated on the abolition of political prisoners, the improvement of the media situation and the conditions under which NGOs were expected to operate, reform of electoral legislation, and guarantees for freedom of assembly and freedom of expression.¹¹

As early as mid-November 2008, Vladimir Makey, who had been appointed head of the Presidential Administration in July 2008, reiterated at the Minsk Forum that Belarus was willing to enter into dialogue, and announced significant improvements in response to the EU decisions, for instance, with regard to media reform. A few days later, in a non-paper delivered to the EU, the Belarusian leadership confirmed its willingness to enter into talks on the new media law and the electoral code. Concrete steps taken included allowing the independent newspapers *Narodnaya Volya* and *Nasha Niva* to have access once more to state-controlled presses and distribution networks (kiosks, etc.). At the same time, the state media began a campaign of intensive positive coverage of the EU. In addition, the authorities officially recog-

10 However, the entry ban on these individuals also ceased in practice to be effective when Vladimir Naumov was released from the position of minister of the interior in April 2009, as there were now no more suspects holding high political office.

11 Cf. Astrid Sahn, *Simulierter Wandel. Belarus '08* [Simulated Change. Belarus '08], in: *Osteuropa* 12/2008, pp. 51-58. On the generational shift within the Belarusian leadership and the related implications for the country's foreign policy, see: Andrey Lyakhovich, *Belarus' Ruling Elite: Readiness for Dialogue and Cooperation with the EU*, in: Mariusz Maszkiewicz (ed.), *Belarus – Towards a United Europe*, Wrocław 2009, pp. 61-81.

nized the *Za svobodu* (“For freedom”) movement of the former presidential candidate Alexander Milinkevich, whose application for registration they had previously turned down on several occasions. A variety of advisory organs were also set up, in which independent experts along with representatives of civil society and the political opposition were included: the Public Co-ordination Council on Media under the aegis of the Ministry of Information at the end of October, a working group encompassing representatives from many branches of the state to develop a strategy for improving the country’s image at the end of December 2008, and the Public Advisory Council in the Presidential Administration under the leadership of Vladimir Makey in February 2009.¹²

These developments were accompanied by numerous meetings between EU representatives and representatives of the Belarusian leadership, of which the meeting between High Representative Javier Solana and President Alexander Lukashenko in Minsk in February 2009 was an early highlight. Co-operation between Belarus and the OSCE has also intensified since 2008. The new quality of the relationship was evident particularly in the visit of the OSCE Chairman-in-Office, Finnish Minister of Foreign Affairs, Alexander Stubb, to Minsk in October 2008, during which he met with President Lukashenko. The OSCE Office in Minsk also held two successful seminars on media freedom during 2008 in co-operation with the National Assembly and the Ministry of Information of the Republic of Belarus, as well as a further seminar on energy efficiency and the use of renewable energy sources. The National Centre of Legislation and Legal Research also declared its willingness to collaborate with the OSCE Office for Democratic Institutions and Human Rights (ODIHR) in preparing draft proposals for the amendment of Belarus’s electoral legislation on the basis of the OSCE election observation mission’s report on the September 2008 parliamentary elections. An initial experts meeting was held on February 2009.¹³ In March 2009, the House of Representatives and the OSCE Parliamentary Assembly held a joint seminar on improving the investment climate in Belarus. This was attended by the President of the Parliamentary Assembly, João Soares.¹⁴

12 Cf. Administratsiya prezidenta zapustila beta-versiyu mekhanizma kontrolya nad vlast’yu [Presidential Administration Releases Beta-Version of Mechanism to Check Power], *Belorusskie novosti*, 6 February 2009, available online at: http://naviny.by/rubrics/politic/2009/02/06/ic_articles_112_161124.

13 Cf. Belarusian Institute for Strategic Studies, *EU Conditionality vis-à-vis Belarus: Has it worked?* 26 May 2009, at: <http://belinstitute.eu/images/stories/documents/mo042009en.doc>.

14 Cf. President of OSCE Parliamentary Assembly satisfied with visit to Belarus, *Belorusskie novosti*, 12 March 2009, available online at: http://naviny.by/rubrics/inter/2009/03/12/ic_news_259_307836; OBSE poluchila novyi podryad na raboty v Belarusi [OSCE Receives New Contract for Its Work in Belarus], *Belorusskie novosti*, 11 March 2009, available online at: http://naviny.by/rubrics/politic/2009/03/11/ic_articles_112_161614.

The intensification of the contacts between international organizations and the authorities in Minsk was accompanied by great scepticism on the part of much of the opposition, which feared being excluded from the ongoing rapprochement between Belarus and the EU and even more politically marginalized as a result of no longer having privileged access to foreign politicians, institutions, and financial resources. They suspected that the European Union was abandoning its democratic standards in exchange for geopolitical considerations and expressly rewarding the inherently undemocratic President Lukashenko for so far refusing, despite pressure from Moscow, to recognize the independence of Abkhazia and South Ossetia.¹⁵ The alliance of parties under the name United Democratic Forces also demanded that the EU should only formulate its initiatives for dialogue with the Belarusian leadership in consultation with it, while demanding to be included directly in the political discussions.¹⁶ With the same goal, the United Democratic Forces delivered their own proposals for electoral reform to the OSCE Office in Minsk in May 2009 to allow these to be examined for conformity with international standards. This request was however rejected by the Head of the Office on the grounds that the Venice Commission of the Council of Europe was only responsible for evaluating official draft legislation. While he simultaneously stressed that the opposition's proposals concurred in many respects with those made by ODIHR, the Chairman of the United Civil Party, Anatoli Lebedko, saw this position as a further confirmation of the betrayal by the international organizations.¹⁷

In 2008, almost the only prominent opposition politician to actively favour dialogue between the EU and the Belarusian leadership was Alexander Milinkevich, the former presidential candidate and founder of the *Za svobodu* movement. Milinkevich had also deliberately refrained from standing as a candidate in the 2008 parliamentary elections, choosing instead to launch a publicity campaign already targeting the 2011 presidential elections. As a consequence of this, his rivals within the opposition feared that by positioning himself as above the drudgery of intra-party squabbles, Milinkevich could gain too much influence over foreign and domestic policy. They accused him of, among other things, effectively contributing to the

15 This was, for instance, explicitly acknowledged in the resolution passed by the European Parliament on the Belarusian parliamentary elections of 9 October 2008, see *European Parliament resolution of 9 October 2008 on the situation in Belarus after the parliamentary elections of 28 September 2008*, Resolution P6_TA-PROV(2008)0470, available online at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2008-0470+0+DOC+XML+V0//EN>.

16 Cf. Sahm, *Simulierter Wandel*, cited above (Note 11).

17 Cf. *BDIPC OBSE ne budet rassmatrivat predlozheniya oppositsii* [OSCE ODIHR Will not Consider the Opposition's Proposals], 28 May 2009, at: <http://bdg.by/news/politics/6061.html>; cf. also Hans-Jochen Schmidt, *Pora otkazatsya ot politiki izolatsii* [Time to Abandon the Policy of Isolation], in: *Svobodnye novosti plyus*, 8-15 July 2009.

international legitimization of the ruling regime in return for receiving a political post.¹⁸ The competition within the opposition over access to European politicians, institutions, and resources and over the nomination of the future presidential candidate resulted in the European Coalition under Nikolai Statkevich and Milinkevich's movement announcing in early 2009 that they would each hold a pro-European congress or forum. In addition, the Belarusian Communist Party under Sergei Kalyakin, which is a member of the United Democratic Forces, took increasingly pro-Russian positions, even speaking in favour of recognizing the independence of Abkhazia and South Ossetia.¹⁹

The obvious inability of the opposition to find a consolidated position and their ongoing internal power struggles, which had already led in the spring of 2007 to the removal of Milinkevich as overall opposition leader and to the election of a collective leadership organ of the United Democratic Forces, consisting of the leaders of the central opposition parties, were also important factors in the change in policy of international organizations and their growing willingness to talk to the Belarusian regime. Indeed, many representatives of international organizations were now convinced that the current internal condition of the opposition meant that it would not be able to win a majority even in free and fair elections. Nevertheless, with its decision of March 2009 not to entirely lift the sanctions imposed upon Belarus, but merely to extend their temporary suspension by a further six months, the EU in effect lent credence to the sceptical views of the Belarusian opposition. Speaking against the complete lifting of sanctions was above all the fact that the Belarusian government had so far made only symbolic concessions, but had not begun the process of generally improving political conditions. In February 2009, for instance, the authorities blocked the registration of the *Vyasna* human rights organization, which is active in independent election monitoring. Furthermore, 13 independent newspapers were still prevented from accessing the state distribution system.

However, the possibility of reintroducing sanctions was overshadowed by the offer made simultaneously to Belarus that it could join the Eastern Partnership initiative without reservations – even if at the same time it was indicated that President Lukashenko would not be welcome to participate in the EU Summit in Prague. Equally, Belarus could not initially expect to receive any significant additional financial support, as the planned total budget for the European Neighbourhood Policy of 600 million euros for the years 2007 to 2010, according to which Belarus was to receive only 21 million euros, remained unchanged. The extent to which Belarus may be able to

18 Cf. Sahm, *Simulierter Wandel*, cited above (Note 11), p. 57. The opposition's campaign against Milinkevich reached its peak with the publication of the article "Otbelivatel' M." (Whitewasher M.) in the newspaper *Narodnaya volya* on 19 May 2009.

19 Cf. Andrey Liackovic, *Congress of Pro-European Forces and its Possible Consequences for the Opposition*, Belarusian Institute for Strategic Studies, BB No. 13/2009EN, 22 May 2009.

profit from the planned increase in the budget after 2010 is likely to depend largely on the course taken by the bilateral treaty negotiations. More important than the financial aspects, however, is the fact that Belarus's entry admission into the Eastern Partnership represents the first time institutional structures for dialogue between Belarus and the EU have been established. A particularly significant aspect of this is the inclusion in these structures, alongside the executive, of the parliament and civil society. In addition, regional co-operation between the six post-Soviet states involved in the initiative is being strengthened. The contents of co-operation will be determined by four "platforms", each focusing on a different topic, and in which international organizations such as the Council of Europe, the OSCE, and the OECD can participate. The four platforms will focus on a) democracy, good governance, and stability; b) economic integration and conversion to EU sectoral policies; c) energy security; and d) direct contacts between individuals. Among other things, the Eastern Partnership offers the states involved the prospect of signing association agreements, the creation of a free trade area, and the removal of the visa requirement.²⁰

An Active Civil Society

In contrast to the political opposition, Belarusian civil society reacted to the country's inclusion in the Eastern Partnership in a largely positive way, though here too there was a widespread conviction that the political regime had so far only made cosmetic changes, and the restrictive operating conditions for NGOs, including the ban on registering NGOs at private residences, continued unchanged. As a result of the constant state repression, the number of officially registered NGOs has stagnated at between 2,000 and 2,500. Nonetheless, in recent years, to the extent that they have not been involved in the political opposition but have rather focused on solving concrete problems, independent civil society organizations have been successful in establishing co-operative relations with state structures at local and regional levels in the areas of education, social policy, environment and energy, and rural development. In 2008, the Belarusian Ministry of Labour and Social Protection stated for the first time that it was willing to elaborate legal mechanisms for the inclusion of NGOs as equals when commissioning the provision of state social services. Belarusian NGOs passed a resolution in Minsk as early as 22 April 2009 in which they welcomed the creation of a Civil Society Forum

20 Cf. Council of the European Union, *Joint Declaration of the Prague Eastern Partnership Summit, Prague, 7 May 2009*, at: http://ec.europa.eu/commission_barroso/president/pdf/speech_20090507.pdf; cf. also the extensive documentation available at: ec.europa.eu/external_relations/belarus/index_en.htm.

within the Eastern Partnership and argued in favour of comprehensive dialogue between state and civil society in Belarus.²¹

NGOs make a key contribution to increasing awareness of the EU and other European organizations within Belarusian society. For example, the *Public Union Education Center "POST"* created EU-themed teaching materials and ran many in-service training courses for teachers.²² In contrast to most of the political opposition, NGOs such as the Lev Sapiega Foundation, which specializes in issues related to local self-government, also spoke out in favour of restoring Belarus's special guest status in the Parliamentary Assembly of the Council of Europe. Belarus had already been granted observer status in the Council of Europe's Congress of Local and Regional Authorities in December 2008, after Minsk had announced its interest in joining the European Charter of Local Self-Government. Both the head of the Sapiega Foundation, Miroslav Kobasa, and the Deputy Chair of the Council of the Republic, Anatoli Rubinov, were invited to the Congress's debate on Belarus at its session on 10 June 2009. Shortly beforehand, on 8 June 2009, the Council of Europe had opened an information office in Belarus for the first time. Still, the decision by the Parliamentary Assembly of the Council of Europe on 23 June 2009 to restore Belarus's special guest status was conditional upon the government at least implementing a moratorium on inflicting the death penalty.²³

Despite this, in recent months, President Lukashenko has made clear in several statements that he considers the establishment of the Civil Society Forum and the discussion of issues such as democracy to be superfluous components of the Eastern Partnership, and the criticisms made by European organizations of the democratic deficits in the country to be disproportionate. In conversation with OSCE Chairman-in-Office Alexander Stubb, he explicitly requested them not to demand from Belarus what they cannot deliver.²⁴ He also made clear that he did not attach any particular expectations to the activities of the newly established councils.²⁵ In the first year of their existence, the councils were in effect unable to achieve any results that the public could recognize. For instance, the Public Advisory Council in the Presidential Administration met three times in the first half of the year. After its opening session on 6 February 2009, it met again on 30 April to consider Belarus's economic development in the face of the global economic crisis, and on

21 Cf. Belarusian Institute for Strategic Studies, *Chto dolzhno prinesiti Belarusi Vostochnoe partnerstvo?* [What Should the Eastern Partnership Bring to Belarus?], 1 June 2009, available online at: http://belinstitute.eu/index.php?option=com_content&task=view&id=406&Itemid=1; see also the eurobelarus.info website.

22 See the POST website at: <http://www.centerpost.org>.

23 The resolution also contains an extensive enumeration of Belarus's deficits regarding the Council of Europe's standards.

24 Cf. Lyakhovich, cited above (Note 11), p. 78.

25 Cf. Pokhoronyat li Obshchestvenno-konsul'tatsionnyi sovet? [Will the Public Advisory Council be Buried?], in: *Zavtra tvoei strany*, 11 February 2009, at: www.zavtra.by/art.php?sn_nid=3760.

17 June where the topic was the humanization of the penal system. The Public Co-ordination Council on the Media sat on 26 March 2009 for the first time and again on 4 June, when it considered questions including allowing all Belarus's independent media access to the state distribution system.²⁶ In the face of the lack of public response to the councils' activities, civil society organizations launched a meeting with the members of the Public Advisory Council with the aim of increasing the role of civil society in the activities of the council.²⁷

Outlook

Against the background of the world economic crisis, the Belarusian government is clearly interested above all in investments in the development of its economy and infrastructure. In early 2009, by drastically devaluing the Belarusian rouble and imposing a public sector wage freeze, it even fulfilled the conditions necessary to receive its first loan from the International Monetary Fund. At the same time, the Belarusian leadership continued to seek loans from Russia, whose payment, however, the Russian side delayed. The subtle signs of a change of direction in both domestic and foreign policy are particularly threatened by the pressure Russia will place on Belarus in the upcoming negotiations on the price of energy to, for instance, adopt the Russian rouble. The ruling Belarusian elite considers co-operation with the EU to have a central role in reducing the country's dependency on Russia, particularly in the economic sphere. Simultaneously, they will use the threat of Belarus taking a European turn as an instrument to encourage Russia to raise its subsidies. This balancing act between Brussels and Moscow looks likely to remain the dominant factor in Belarusian foreign policy for the immediate future. The economic benefit of co-operation with the EU will have a decisive influence on it.

In contrast to earlier short-lived attempts at rapprochement, since 2008, relations between Minsk and the European organizations seem to have reached a new level, evident above all in Belarus's greater willingness to talk and openness to the EU's policy of conditionality. However, the Belarusian leadership continues to be of a mind to retain its specific state form and monopoly of control over society. This is where the danger stems from that the simulated integration with Russia could be replaced by simulated rapproche-

26 Cf. *Vlasti slushayut nezavisimyykh ekspertov, no ne slyshat* [The Authorities Hear Independent Experts but Don't Listen], in: *Belorusskie novosti*, 18 May 2009, at: http://naviny.by/rubrics/politic/2009/05/18/ic_articles_112_162672/; cf. also: Zhanna Litvina, *Eticheskii kodeks – eto instrument samoregulirovaniya* [Ethical Codex – an Instrument of Self-Regulation], in: *Novaya Evropa*, 10 June 2009, at: <http://baj.by/m-p-viewpub-tid-1-pid-6979.html>.

27 Cf. *Mozhet li konsultativnyi sovet stat' obshchestvennym* [Can the Advisory Council Become Public?], in: *Belorusskaya delovaya gazeta*, 10 July 2009, at: <http://bdg.by/analytics/213.html>.

ment with the European organizations. The institutionalized dialogue and co-operation structures that have now been introduced, in combination with the pressure to act created by the financial crisis, however, provide an opportunity for a gradual change of mindset to occur among both the general population and the leadership, bringing an end, in particular, to the official tendency to see oppositional and independent civil society forces as enemies. Without the development of a new political culture based on participation and compromise, a thoroughgoing transformation of the structural environment will not be possible. The European organizations therefore need to take care to pursue a balanced policy that addresses all target groups: state structures, opposition, civil society, and the passive population.

Ukraine's Stable Instability

*Let crayfish, swan and pike
Draw heavy loaded cart,
Each being just a part
Of harness they dislike.*

*They try a lot, and everyone
Starts pulling it with zeal;
The problem is that each of them
With his path wants to deal!¹*

Five years have passed since mass protests against falsified presidential election results led to the change of government in Ukraine known as the “Orange Revolution”. This was also the end of the presidency of Leonid Kuchma, which was characterized by its scandals. His rule was criticized for increased corruption, governmental control of the mass media, unfair elections, and a general lack of democracy, as well as an uncertain foreign policy orientation that vacillated between Russia and the West. What has changed since then?

During these five years we have got used to following reports on Ukraine's almost annual elections, the resulting political crises and quarrels among its political leaders, problems in Russian-Ukrainian relations, especially “gas wars”, and internal divisions between pro-Western and pro-Russian regions. 2009 was an especially difficult year, as Ukraine was gravely affected by the world economic crisis. This contribution looks at Ukraine's “stable instability” with a focus on events in the year 2008-2009. It considers Ukraine's political, economic, and regional instability (with reference to the example of Crimea) as well as the disharmony of its foreign policy. However, it also points out some of Ukraine's important achievements. The contribution shows that Ukraine is in the midst of many conflicts: internal – between its own officials, and between supporters of different foreign policy courses, and external – between Russia and the West.

Note: The author would like to thank Boris Kazansky for his invaluable support during the research for this article.

1 Ivan Krylov, *Crayfish, Swan and Pike*, 1814. The English translation can be found at: <http://allpoetry.com/poem/2283813>.

Since the “Orange Revolution”, the main political forces in Ukraine have not only been constantly engaged in election campaigns (there was a presidential election in 2004, and will be another in 2010; parliamentary elections were held in 2006 and 2007, and the next are due in 2012) and personal political struggles, but have even come to physical blows. Victor Yanukovych, the leader of “Our Ukraine”, the party with the pro-Russian reputation, who was Victor Yushchenko’s opponent in presidential elections in 2004, has been strengthening his positions vis-à-vis pro-Western Prime Minister Yulia Tymoshenko and President Yushchenko. His party has prevented the *Verkhovna Rada*, Ukraine’s parliament, from meeting on more than one occasion by blocking access to the rostrum or the entrance to the parliament chamber.² But even more strikingly, Yulia Tymoshenko and Victor Yushchenko, the former partners in the “Orange Revolution”, have become serious competitors and even adversaries, accusing each other of various misdeeds.

Since the parliamentary elections in 2006, governing coalitions have been formed and reformed.³ However, the main issues of disagreement concerning Ukraine’s domestic and foreign policies remain the same, as do personal political ambitions and animosities. As a result, elections take place, coalitions change, but the main actors do not, and there is a striking continuity in that the major political forces are unable to find compromises or working formulas.⁴

In the spring of 2007, President Yushchenko dissolved the parliament, and new elections were held in the autumn of that year. In 2009, there was again speculation that Yushchenko, fearing that the parliament under the leadership of Tymoshenko would limit his presidential authority, might dissolve the *Rada* once more.⁵ In January 2006, Ukraine adopted a parliamentary-presidential system of government, but it remains unclear what this means and how powers between the president and the parliament (headed by the prime minister) should be distributed. As Prime Minister Tymoshenko herself admits: “‘Semi’ systems do not divide powers clearly and are there-

2 See, for example: BYuT razoblachil plan Partii Regionov po rospusku Rady [BYUT has uncovered the plan of the Party of Regions for the dissolution of the Rada], *Lenta.ru*, 12 May 2009.

3 In 2007, President Yushchenko dissolved parliament. In September 2008, the coalition that had been formed after the pre-term parliamentary elections in 2007 broke down.

4 On some of these developments, see Elena Kropatcheva, Ukraine after the March 2006 Parliamentary Elections: Quo Vadis? In: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2006*, Baden-Baden 2007, pp. 71-84.

5 See, for example, Alexander Sviridenko. Predlog i predlozhenie. Konstitutsionnyi sud izuchaet poryadok formirovaniya koalitsii [Pretext and Proposal. Constitutional Court Studies the Order of the Coalition Formation], in: *Kommersant*, 3 April 2009.

fore recipes for ‘chaos.’”⁶ While Tymoshenko is in favour of changing the constitution to establish a parliamentary system, Yushchenko hopes to strengthen presidential authority, by changing Ukraine’s current parliamentary-presidential system into a presidential one.⁷ According to the US Judge Bohdan Futey, Ukraine remains “in legal turmoil to this day.”⁸

Primarily because of the disputes between Tymoshenko, Yushchenko, and Yanukovych but also because of the haggling that went on over strategic positions in the government, some of the country’s important ministerial positions have been left vacant for a while.⁹ After the parliament dismissed Foreign Minister Volodymyr Ohrysko, who had been nominated by the president, Ukraine had no foreign minister for more than five months (since March 2009), but only an acting foreign minister in Volodymyr Handogi. “What kind of a message do the authorities convey to the outside world? That they do not care for the foreign policy, as long as the domestic policies are completely senile?” was the question raised by *Zerkalo Nedeli*, a Ukrainian weekly newspaper.¹⁰ The *Rada* also dismissed Defence Minister Yuriy Ekhanurov, and, since June 2009, Ukraine has only had an acting defence minister in Valery Ivashchenko. In February, the *Rada* also dismissed the Finance Minister Victor Pynzenyk. Igor Umanskiy is the acting finance minister. The interior minister, Yuriy Lutsenko, also offered to resign, after a scandal in which he was accused of drunken behaviour at Frankfurt-am-Main airport, but he retained this position.¹¹

Both the EU and the US have started to voice their disappointment with the domestic political turmoil in Ukraine. For instance, the EU-Ukraine Parliamentary Cooperation Committee (PCC) issued a statement expressing “its deep concern over the continuing political struggle in Ukraine”, stressing “that such permanent political tensions might hamper the progress of the urgently needed constitutional, institutional and socio-economic reforms”, and urging “the Ukrainian political leaders to overcome internal political divisions [...]”.¹² During his visit to Ukraine in July 2009, US Vice President Joe Biden asked “why the government was not exhibiting the same political

6 Tymoshenko, cited in: Taras Kuzio, *Constitutional Instability in Ukraine Leads to “Legal Turmoil”*, RFE/RL, 26 June 2009, at: <http://www.rferl.org/articleprintview/1763341.html>.

7 Cf. Clifford J. Levy, *Ukraine’s Political Paralysis Gives Black Eyes to Orange Revolution Heroes*, in: *New York Times*, 23 June 2009; on concrete reform proposals, see also: Valery Kalnysh/Nikolai Filchenko, *Ukraine, Constitution and People*, in: *Kommersant*, 25 August 2009.

8 Bohdan Futey, cited in: Kuzio, cited above (Note 6). The article also contains more information on the constitutional problems in Ukraine.

9 True at the time of writing in August 2009.

10 Tatyana Silina, *Midominizatsiya [MFA-ization]*, *Zerkalo Nedeli* No. 24, 27 June-3 July 2009.

11 *Ukrainischer Innenminister pöbelt am Flughafen [Ukrainian Interior Minister in Airport Brawl]*, in: *Süddeutsche Zeitung*, 6 May 2009, at: <http://www.sueddeutsche.de/panorama/960/467533/text>.

12 EU-Ukraine Parliamentary Cooperation Committee, Twelfth Meeting, 24-25 February 2009, Brussels, *Final Statement and Recommendations pursuant to Article 90 of the PCA*, para. 11.

maturity as the people, why communication among leaders has broken down to such an extent that political posturing appears to prevent progress”, and pointed out that “in a democracy, compromise is not a sign of weakness; it is evidence of strength.”¹³

International ratings, such as those produced by Freedom House, the Bertelsmann Foundation, and Transparency International, tend to show that, since the “Orange Revolution”, there has been practically no progress as far as the rule of law and the fight against corruption are concerned.¹⁴ Though Ukraine’s indicators (such as freedom and the state of democracy) are better than those of other CIS states, Ukraine remains far behind Central-Eastern European countries.¹⁵ Ninety-three per cent of the population are dissatisfied with both the political and the economic situation in their country, according to an October 2008 survey by the International Foundation for Electoral Systems (IFES), and it “is the highest figure for dissatisfaction in Ukraine” of all the IFES polls conducted since 1994.¹⁶ The level of confidence in political institutions and political leaders has dropped significantly.¹⁷

At the time of writing, presidential elections are scheduled to be held on 17 January 2010 and the new parliamentary elections are to take place in 2012, but it is not possible to say whether these dates will remain or whether this will change as a result of internal political disputes and conflicts. According to opinion polls, Yanukovych is the most popular politician: 34.7 per cent of those polled are ready to give him their votes. Tymoshenko follows with 21.5 per cent of support; while Yushchenko lags far behind his major competitors with only of 3.5 per cent of potential votes.¹⁸ The leader of the Communist Party, Pyotr Simonenko, would win 5.7 per cent of votes and 3.8 per cent would go to the speaker of the Parliament, Vladimir Litvin.¹⁹

While these politicians will not be competing for the position of president for the first time, there will be a few new competitors as well. The most promising is Arseniy Yatsenyuk, the leader of the *Front for Change*, which was founded as recently as 2008. He is the former chairman of the parliament (2007-2008) and a former foreign minister (2007). Yatsenyuk claims to have no allies among the current political leaders, of whose political struggles the

13 US Vice President Biden Makes a Strong and Clear Commitment to Ukraine from the US, in: *Action Ukraine Report*, No. 938, 23 July 2009.

14 Cf. Heiko Pleines, Die Ukraine in politikbezogenen Länderrankings. Demokratie, Rechtsstaat und Bürgerrechte im internationalen Vergleich [Ukraine in Policy-based Country Rankings. Democracy, Rule of Law and Human Rights in International Comparison], in: *Ukraine-Analysen* 56/09.

15 Cf. *ibid.*

16 Rakesh Sharma, *Dissatisfaction and Disillusionment in Ukraine: Findings from the 2008 IFES Public Opinion Poll*, 25 February 2009, at: http://www.wilsoncenter.org/index.cfm?topic_id=1424&fuseaction=topics.event_summary&event_id=497909.

17 Cf. *ibid.*

18 Cf. Opros: Yanukovych uverenno lideruet v presidentskoy gonke [Survey: Yanukovych Confidently in Lead in Presidential Race], in: *Zerkalo Nedeli*, cited above (Note 10).

19 Cf. *ibid.*

population is tired.²⁰ It is his aim to convince the population that he can be like a fresh wind blowing through Ukrainian politics, that he can be a truly pro-Ukrainian politician (defending Ukraine's interests rather than those of Russia or the West), who will end the political haggling and struggles and bring order to the country, and not someone who will "divide and split the country, in order to get the electoral support in the East and in the West".²¹ Nevertheless, it is doubtful whether he is as independent as he wants to appear. During his political career, Yatsenyuk worked closely with Yushchenko, for example in presidential administration in 2006; he was elected into the parliament as the representative of the pro-presidential Our Ukraine-People's Self Defence Bloc. Though he has so far remained vague regarding foreign policy, and whether Ukraine should pursue a pro-Western policy or restore its relations with Russia, he is a pro-Western politician: As Chairman of the parliament in 2008, he joined Yushchenko and Tymoshenko in signing a letter requesting NATO to offer Ukraine admission to the Membership Action Plan.

All in all, instability has been a constant feature of Ukraine's politics since the success of the "Orange Revolution". The fact that new presidential and parliamentary elections are to take place in 2010 and 2012 means that the main political forces will continue to be preoccupied with campaigning rather than working to solve the country's problems and carry out necessary reforms. The "Orange Revolution" has given Ukrainian politicians a unique chance to start over with building a democratic and economically stable country, however, so far they have failed to grasp this opportunity thanks to their petty and greedy games over power and money. Even the EU and the US are no longer silent in criticizing the current state of affairs in the country. While the majority of Ukrainians still believe in the ideals of the "Orange Revolution", their disappointment with the politicians who represent their country has been growing. Their great hope now is that new politicians will emerge who will be able to overcome former structures of alliance and animosity. Though it is a positive sign that new politicians such as Yatsenyuk have started to enter the political arena in Ukraine, it is doubtful whether they can become the kind of genuinely independent and unbiased politicians that would really concentrate on the problems and challenges Ukraine faces.

Economic Instability

Ukraine was hit especially hard by the world financial crisis. According to estimates, the Ukrainian economy will contract by ten per cent, and the

20 Cf. *Yatsenyuk says he has no allies among Ukrainian politicians*, UNIAN, 4 February 2009.

21 Interview with Yatsenyuk on Echo Moskv, 5 April 2009, at: <http://echo.msk.ru/programs/beseda/583282-echo>.

hryvnia-dollar exchange rate has already fallen by 36 per cent.²² The situation in many strategic sectors of Ukraine's economy is fragile and extremely vulnerable. Although, on 26 December 2008, Ukraine did adopt its 2009 budget, in which social expenditure was not increased, the budget was nonetheless based on inaccurate and unrealistic predictions of economic growth.²³ According to an August 2009 analysis of Ukraine's macroeconomic situation, the provisional national accounts for the first quarter of 2009 show that real GDP fell by 20.3 per cent compared to the corresponding quarter of 2008. Ukraine's real exports of goods and services fell by 16 per cent. Deterioration in investment activity was particularly severe, for example, investments in fixed capital declined by almost 50 per cent.²⁴

Ukrainians are dissatisfied with the widespread economic problems, corruption, and poverty in their country.²⁵ Only 15 per cent believe that their country is a democracy, which is the lowest this figure has been in nine years of polling by IFES. Moreover, democracy is understood primarily as a matter of economic and social well-being rather than in terms of freedoms.²⁶

Ukraine's economic problems have also struck the UEFA Euro 2012 Football Championship, which the country is hosting together with Poland. For example, in July 2009 President Yushchenko vetoed a law, according to which the National Bank of Ukraine was to provide 880 million euros to pay for the tournament. Yulia Tymoshenko still hopes that the *Verkhovna Rada* can overcome this, which endangers Ukraine's involvement in the championship, characterizing the president's action as "very dishonest tactics in the fight against me as his opponent in the next presidential election."²⁷ UEFA officials are already worried about the Ukraine's lack of preparation and have warned it that it risks losing the event.²⁸

The International Monetary Fund (IMF) approved a standby loan of 16.4 billion US dollars to Ukraine, which the latter is receiving in instalments.²⁹ The US agreed to provide Ukraine with 120 million US dollars in

22 Data cited in: Jonas Grätz, Der russisch-ukrainische Erdgasstreit: Fortsetzung ohne Ende? [The Russian-Ukrainian Gas Conflict: No End in Sight?], in: *Ukraine-Analysen* 58/2009, p. 2.

23 For more details see Robert Kirchner/Ricardo Giucci, Die ukrainische Wirtschaft zum Jahresanfang 2009: ein schwieriges Jahr voraus! [The Ukrainian Economy at the Start of 2009: A Difficult Year Ahead!], in: *Ukraine-Analysen* 51/2009, pp. 3-5.

24 For more details see Olga Pogarska/Edilberto L. Segura, Ukraine – Macroeconomic Situation – August 2009, in: *Action Ukraine Report* No. 939, 24 August 2009, at: http://action-ukraine-report.blogspot.com/2009_08_01_archive.html#a9.

25 Cf. Sharma, cited above (Note 16).

26 Cf. *ibid.*

27 *Yu. Tymoshenko obvinila V. Yushchenko v sryve Evro 2012* [Y. Tymoshenko Accuses V. Yushchenko of Scuppering Euro 2012], at: <http://top.rbc.ru/politics/04/08/2009/319739.shtml>.

28 Cf. Clifford J. Levy, cited above (Note 7).

29 As of 5 August 2008, Ukraine had received 10.9 billion US dollars. Cf. *Ukraina poluchila tretyi transh kredita ot MVF na \$3.3 bln* [Ukraine has received the third instalment of credit from the IMF in the sum of 3.3 billion US dollars], in: *RBK Daily*, at: <http://top.rbc.ru/economics/05/08/2009/319963.shtml?print>.

aid.³⁰ However, Ukrainian politicians have taken offence at the fact that the EU has not jumped in to help Ukraine. Deputy Prime Minister Hryhory Nemyria, for example, complained: “We have the IMF, we have EBRD and World Bank, but the EU is not on the horizon. That’s a major contradiction and we are seeking answers for that.”³¹

In 2009, a new gas crisis ignited between Russia and Ukraine. In January 2009, some of the EU customers were left without gas deliveries for 13 days, after *Gazprom* cut off its gas deliveries to Ukraine because of the latter’s debt and then Ukraine’s *Naftogaz* refused to transport the Russian gas to the EU, arguing that it had no longer had the “technical gas” necessary to enable the transit.³² Russian *Gazprom* representatives had difficulties in conducting negotiations with their Ukrainian counterparts, as they received contradictory instructions from President Yushchenko and Prime Minister Tymoshenko. At times there was no one available from the Ukrainian side for talks. Both sides hoped the EU would intervene on their behalf. This was the first time that the EU sent its monitors to observe how gas was transported from Russia to the EU via Ukraine and how much was being put through the system. As a result of this conflict, both Russia’s image as a reliable provider of energy and Ukraine’s image as a reliable transporter have suffered.

On 19 January 2009, Russia’s *Gazprom* and its Ukrainian counterpart *Naftogaz* signed a new agreement. Even though it has important advantages, for example that prices will be set according to a formula based on the price of oil for the next ten years, many questions about the final price and especially about Ukraine’s ability to pay remain. If the country is not able to pay for its gas deliveries, new conflicts between Russia and Ukraine may take place any time.

One more factor of irritation in both Russian-Ukrainian and Russian-EU relations was the Brussels declaration on modernizing Ukraine’s gas transport system, signed on 23 March 2009, from which Russia was excluded. Putin called the initiative “ill considered and unprofessional”.³³

The question of how Ukraine will manage to pay for its Russian gas until the end of 2009 remains. President Dmitry Medvedev explained the Russian position as follows: “We are ready to help the Ukrainian state but would like the European Union, those countries that are interested in reliable security of energy cooperation, to take upon themselves the bulk of this

30 Cf. US Vice President Biden Makes a Strong and Clear Commitment to Ukraine from the US, cited above (Note 13).

31 Cited in: Natsuko Waki, *Ukraine says IMF Funds Not Enough, Hits at EU*. Deputy Prime Minister Hryhory Nemyria speaks out at EBRD meeting, criticizes EU, Reuters, 15 May 2009.

32 For more information on this conflict and its implications see *Action Ukraine Report* No. 926, 27 January 2009.

33 *Putin warns EU over Ukraine pipeline deal*, Eur.Activ.com, 24 March 2009. On the reasons why Russia was critical, cf. also Grätz, cited above (Note 22), p. 3.

work.”³⁴ The EU had to admit that it “had to prepare for the worst case scenario”.³⁵ In order to prevent a new interruption of Russian gas deliveries to the EU, Ukraine has asked the EU to provide it with a loan of 4.2 billion US dollars. The EU realizes how serious this problem is: “Russian gas has to be paid for [...] It is about a big crisis.”³⁶ It is still unclear whether the loan will be provided, as according to Commission President Barroso, this is not directly an EU problem, but is something that Ukraine and Russia need to sort out.³⁷ A spokesperson for the European Commission has also noted that “such amounts are not given out without necessary commitments.”³⁸

According to the January agreement between *Gazprom* and *Naftogaz*, the latter has to pay for deliveries made in any given month on the 7th of the next. Each month it is unclear whether Ukraine is going to be able to meet its obligations or not. At the end of June, at an urgent session of the EU Gas Co-ordination Group in Brussels, Ukraine admitted that it does not have enough funds to meet its financial commitments, which were agreed by the two sides in January.³⁹ Besides its financial commitments to Russia, *Naftogaz* had to repay foreign creditors a total of 500 million dollars in September 2009.

The economic situation in Ukraine is thus very serious. It has been negatively affected by not only the world financial crisis, but also by crises in its relations with Russia and by the disagreements between the representatives of its own government, who are often unable to work out a strong common position on key issues. While Ukraine has been pursuing complete independence from Russia, it still expects some concessions from Moscow, especially in the form of cheaper energy prices. The only hope for Ukraine is to increase its existing credit lines, take out more loans, and request financial help. Economic reforms (such as those that aim to reduce gas consumption in Ukraine) could help as well, but under current conditions, in which the political leaders’ top priority is campaigning and trying to earn political points against their competitors, effective reforms do not seem to be possible. Economic issues in Ukraine have several potentials for conflict: internally between Ukraine’s own political leaders, externally in Russian-Ukrainian relations, but also in relations between Russia and the EU and Ukraine and the EU.

34 *EU should lend Ukraine Money for Gas payments: Medvedev*, 22 May 2009, <http://www.eubusiness.com/news-eu/1242978426.48>.

35 José Manuel Barroso, cited in: EU droht Aufflammen des Gasstreits [Flare-up of Gas Conflict Threatens EU], in: *Financial Times Deutschland*, 19 June 2009 (author’s translation).

36 Ibid.

37 Cf. *Ukraine bisher ohne Geld für Russen-Gas* [Ukraine Remains Short of Funds for Russian Gas], EU-Info.Deutschland, 6 July 2009, at: www.eu-info.de/dpa-europaticker/155549.html.

38 Cited in: *ibid.* (author’s translation).

39 Cf. *ibid.*

Ukraine remains internally divided as regards the orientation of its foreign policy: While the eastern and southern regions support closer relations with Russia, the western and central parts of Ukraine support integration with the West. Nowhere are the divisions so strong as in the Crimea. In 1992, the Crimea claimed independence from Ukraine. Although this has since been dropped, socio-cultural cleavages and tensions and the potential for conflict remain.⁴⁰ The Crimea is mentioned as a separate issue under “specific challenges” in the final statement of the EU-Ukraine Parliamentary Cooperation Committee.⁴¹

Several protests against NATO and the US are held in the Crimea each year.⁴² The majority of the population are Russians and pro-Russian Ukrainians, who are against the increased NATO presence and US influence in the country. In December 2008, the goal of “developing cooperation with Ukraine’s regions, including Crimea” was included in the US-Ukraine Charter on Strategic Partnership.⁴³ After that, the US initiated plans to open a “diplomatic presence” in the Crimea,⁴⁴ which has generated protests there.⁴⁵

One more problematic issue is the presence of the Russian Black Sea Fleet, which is stationed in the Crimea. President Yushchenko, hoping for NATO membership, continues to reiterate that Ukraine “cannot allow the presence of troops from any country or any bloc on Ukrainian territory” and that the Russian Black Sea Fleet has to leave Ukraine after the relevant agreement expires in 2017.⁴⁶ At the same time, the representatives of the US have been trying to convince Russia that its Black Sea Fleet would not automatically need to leave Ukraine if the latter were to join NATO.⁴⁷ Meanwhile

40 Cf. Topical problems in social relations in the AR of Crimea: positions of experts, in: *National Security and Defense*, 5/2009.

41 Cf. EU-Ukraine Parliamentary Cooperation Committee, Twelfth Meeting, *Final Statement and Recommendations*, cited above (Note 12), here: para. 24

42 Cf. Jeffrey White. Nyet to NATO in Crimea, in: *Spiegel Online International*, 4 March 2008, at: <http://www.spiegel.de/international/europe/0,1518,545105,00.html>.

43 For the text of the document see: <http://www.america.gov/st/peacesec-english/2008/December/20081219155712dmslahrellek5.079287e-02.html>.

44 Cf. Merle D. Kellerhals Jr., *United States, Ukraine Sign Security Charter. NATO membership remains key U.S. priority, Rice says*, at: <http://www.america.gov/st/peacesec-english/2008/December/20081219155712dmslahrellek5.079287e-02.html&distid=ucs>.

45 Cf. *Ukraine’s Crimean parliament speaker opposes US embassy office in Simferopol*, Interfax, cited in: David Johnson’s Russia List 44/2009, at: <http://www.cdi.org/russia/johnson/2009-25-44.cfm>.

46 Cf. *Ukrainian President says time to reset ties with Russia*, BBC Monitoring International Reports, 2 April 2009. See also: Soglashenie mezhdru RF i Ukrainoi o statute i usloviyakh prebyvaniya Chernomorskogo Flota RF na territorii Ukrainy [Agreement between the RF and Ukraine on the Status and Terms of the Stationing of Russia’s Black Sea Fleet on Ukraine’s Territory], in: *Diplomaticheskii Vestnik* 8/1997, pp. 31-35.

47 See, for example, this interview with Steven Pifer: *Eks-posol SSha zaveril, chto NATO razreshit Chernomorskomu flotu ostatsya v Krymu* [Former US Ambassador Assured that NATO Will Allow the Black Sea Fleet to Stay in Crimea], news.ru.com, 2 February 2009, at: <http://www.newsru.com/world/02feb2009/nato.html>.

minor conflicts regularly occur between the Russian and Ukrainian sides regarding the Black Sea facilities and whether they belong to the Russian or the Ukrainian Black Sea Fleet.⁴⁸

All in all, the Crimea remains a special and vulnerable region of Ukraine. Not only is it a sensitive region in socio-cultural terms, Ukraine's divisions over its foreign policy orientation – Russia or the West – are conspicuously reflected here. Moreover, bilateral disagreements between Russian and Ukraine regarding the Crimea are also frequent occurrences – whether they concern the division of the old Soviet inheritance (Black Sea Fleet facilities), or Ukraine's membership aspirations.

Foreign Policy Disharmony

The previous sections have demonstrated that many internal issues in Ukraine have strong connections to its foreign policy, and especially to its relations with Russia and the West (both the EU and NATO states). Seventy-five per cent of respondents to the IFES poll find Ukraine's foreign policy unsatisfactory.⁴⁹ Ukraine is still trying to find "harmony" between Russia, "a great country in the East", and the West, where "different rules and different laws" exist; they operate with different concepts and notions, and Ukraine has its interests in both.⁵⁰

Since the "Orange Revolution", Ukraine's relations with Russia have been extremely problematic. Some of the problems have already been mentioned: the "gas wars", the presence of the Russian Black Sea Fleet in Ukraine, and Ukraine's prospects of NATO membership.

After the August 2008 war in Georgia, the then defence minister of Ukraine, Yuriy Yekhanurov, described Russia as one of Ukraine's potential adversaries: "There are questions related to the Crimea, and you know after the events in the Caucasus everyone started to understand that there is a problem of regional security."⁵¹ Because of the majority Russian and Russian-speaking population in the Crimea, questions were raised about whether Ukraine could be the next place where Russia would choose to intervene using military means, as it did in Georgia. Nevertheless, it should be recalled that Russia did not interfere in the Crimea in the early 1990s during the escalation of a separatism crisis there. For its part, Russia accused Ukraine of

48 See, for example, Dmitry Solovyov, *Black Sea Lighthouse stirs Russia-Ukraine Tension*, Reuters, 27 August 2009, at: <http://www.reuters.com/article/newsMaps/idUSTRE57Q3O220090827>.

49 Cf. Sharma, cited above (Note 16).

50 *Interview with Victor Yushchenko*, Ekho Moskv, 2 April 2009, at: <http://echo.msk.ru/programs/beseda/582872-echo.phtml> (author's translation).

51 Yuriy Yekhanurov, cited in: *Yekhanurov: Rossiya i Ruminiya protivniki Ukraini* [Russia and Romania are Ukraine's Adversaries], Rosbalt Ukraina, 22 May 2009, at: <http://www.rosbalt.ru/2009/05/22/642403.html>.

illegally supplying arms to Georgia, which the latter used against Russia during the August events in 2008.⁵²

Despite this, there is willingness on both sides to normalize relations. According to President Yushchenko “it is stupid to have bad relations, stupid”.⁵³ Russian President Dmitry Medvedev thinks that the two countries should have “special” relations, because they are “brotherly nations”, whose relations are based on thousands of years of history, common values, close economic ties and genetic links between their peoples.⁵⁴ However, this is precisely the problem: While Ukraine wants to be treated like any other state (except in the area of economics, where it expects cheaper gas from Russia), Russia has again started to insist on “special” “brotherly” relations. While Russia tried to distance itself from Ukraine in various areas during Putin’s presidency by, for instance, diversifying trade, building new energy pipelines independently of Ukraine, and investing in other regions, the fact that the Russian side has again started to speak of “brotherly” relations indicated a retrograde step in Russia’s policy towards Ukraine and a sign that it has not yet come to terms with the past. But by the same token, neither has Ukraine overcome old patterns of thinking, as its demand for cheap gas shows.

The majority of those polled in Russia and Ukraine by the Levada Center (65 and 55 per cent respectively) think that the two countries should be independent but friendly. While 93 per cent of Ukrainians have a positive attitude towards Russia, 55 per cent of Russians have negative feelings towards Ukraine. At the same time, the majority of the population in each country has a positive attitude towards the population of the other.⁵⁵

Unfortunately, there are no indications that relations between Russia and Ukraine will improve in the immediate future. On the contrary, Moscow decided not to send a new ambassador to Ukraine as long as Kiev remains hostile to Russia, as Medvedev explained in a letter to his Ukrainian counterpart.⁵⁶ President Yushchenko did not like this “unfriendly” step.⁵⁷

While relations between Ukraine and Russia are aggravated, some progress is evident with regard to Ukraine’s aspirations for Western integration. The EU, NATO, and the US continue to support Ukraine’s desire to integrate with Western institutions in some form.

52 See Dmitry Medvedev, *Votnosheniyah Rossii i Ukrainy dolzhny nastupit novye vremena* [New Times Have to Come in Russian-Ukrainian Relations], Videoblog of Dmitry Medvedev, 11 August 2009, at: <http://blog.kremlin.ru/post/30/transcript>.

53 *Ukrainian President says time to reset ties with Russia*, cited above (Note 46).

54 President Dmitry Medvedev, *Interview with leading Russian broadcasters*, 24 December 2008, at: <http://www.kremlin.ru/text/appears/2008/12/210963.shtml> (author’s translation).

55 *Rossiyanе ob ukrainsakh, ukraintsi o Rossii* [Russians on Ukrainians, Ukrainians on Russians], Levada Center, 23 June 2009, at: <http://www.levada.ru/press/2009062305.html>.

56 See Medvedev, cited above (Note 52).

57 The Letter from the President of Ukraine, Victor Yushchenko, to the President of the Russian Federation, Dmitry Medvedev, of 13 August 2009 is available online at: <http://www.president.gov.ua/ru/news/14676.html> (in Russian).

In 2008, in the course of the NATO Bucharest Summit, Ukraine received a promise that it could become a member of NATO one day. At the same time, former NATO Secretary General Jaap de Hoop Scheffer stated clearly that “the states that are willing to join the bloc must comply with the NATO requirements”, and the internal situation in Ukraine is “complicated to put it diplomatically.”⁵⁸ The position of the current NATO Secretary General, Anders Fogh Rasmussen, “is exactly the same as has been decided by NATO allies. [...] At the Bucharest Summit, we decided unanimously that Georgia and Ukraine can become members of NATO in the future, provided of course that they fulfil the necessary criteria. They do not fulfil the necessary criteria at this stage, so here and now, it’s a hypothetical question.”⁵⁹ Nevertheless, both the NATO alliance and the US individually are continuing to support Ukraine in its efforts to prepare for membership.

Nevertheless, 56 per cent of opinion-poll respondents objected to Ukraine joining NATO.⁶⁰ Despite this, President Yushchenko has signed a decree initiating an annual national programme on Ukraine’s preparation for NATO membership for 2009. Earlier, the district administrative court of Kiev came to the conclusion that the president’s passivity regarding the organization of a national referendum on whether Ukraine should join NATO is illegal. In 2008, the Constitutional Court of Ukraine ruled that the president has to organize a referendum on the issue before more actively pursuing his policy of seeking NATO membership.⁶¹ Knowing that the majority of the population throughout Ukraine are against membership of the Alliance, the policy’s supporters and promoters are afraid that a national referendum would block their objective. Therefore, even though Ukraine has received an affirmation that it will be able to become a member of NATO some day, many problems remain. Ukraine still has to fulfil many NATO criteria and to implement a number of necessary reforms, in both the military and political spheres (strengthening democracy, reducing corruption, etc.). It remains doubtful whether the majority of the population would support a policy oriented on NATO membership in the future, not to mention the division of Ukraine’s government into pro-NATO (Tymoshenko, Yushchenko, Yatsenyuk) and anti-NATO forces (Yanukovych, Simonenko, Litvin).

As far as Ukraine’s aspirations to join the EU are concerned, most political forces and the majority of the population support it.⁶² Some progress

58 Jaap de Hoop Scheffer, cited in: Scheffer and his heritage, in: *Georgia Times*, 21 July 2009, at: <http://www.georgiatimes.info/en/articles/17091.html>.

59 NATO, *First NATO Press conference by Secretary General Anders Fogh Rasmussen*, 3 August 2009, at: http://www.nato.int/cps/en/natolive/opinions_56776.htm.

60 Cf. Sharma, cited above (Note 16).

61 Cf. *V. Yushchenko podpisal ukaz o podgotovke Ukrainy k vstupleniyu v NATO* [V. Yushchenko Has Signed a Decree on Ukraine’s Preparation for NATO Membership], RBC, at: <http://top.rbc.ru/politics/07/08/2009/320502.shtml>.

62 Around 50 per cent of the population support Ukraine’s goal of joining the EU, while 30 per cent are against it as of April 2008, according to polling by the Razumkov Centre. See

has been achieved: At the EU-Ukraine Summit in Paris on 9 September 2008, the EU and Ukraine agreed to work towards concluding an Association Agreement, which would include a deep and comprehensive free trade area between the EU and Ukraine. Furthermore, “following the August 2008 war between Russia and Georgia and the January 2009 Russia-Ukraine gas dispute [...] relations between the EU and Ukraine should be qualitatively reinforced and considerably strengthened.”⁶³ According to Tymoshenko, the EU “is inclined to sign the Association Agreement by the end of the year [2009].”⁶⁴ She came to this conclusion after the discussions at the 13th meeting of the Ukraine-EU Cooperation Council in June 2009, at which an agenda for Ukraine-EU co-operation was signed, which “gives a new roadmap and raises our cooperation to a principally new level”.⁶⁵

Ukraine was also invited to participate in the Eastern Partnership Summit in Prague on 7 May 2009. Even though the purpose of this new EU initiative was “a more ambitious partnership between the European Union and the partner countries”, membership prospects were not even mentioned.⁶⁶ As a result, Ukraine perceived this new initiative of the EU with mixed feelings. While the Ukrainian president positively assessed the results of the summit, there was also some disappointment and confusion regarding what this initiative would mean for bilateral relations between Ukraine and the EU and particularly Ukraine’s membership prospects for the EU.⁶⁷

In general, the EU and NATO have been trying to provide Ukraine with realistic support in its aspirations to become a liberal Western state: They have given Ukraine hope that their relations will be intensified while nonetheless pointing out that Ukraine still has to implement many conditions and requirements, and that its internal – especially political – situation has to become more stable before relations can become deeper. In the case of NATO, Ukraine was promised an opportunity of membership. In the case of the EU, membership has not been on the agenda of talks, but the Association Agreement with a comprehensive free trade area would be a first important achievement on the road to some form of integration.

Ukraine-EU Cooperation: Public Assessment, in: *National Security and Defence* 6/2008, pp. 37-56, here: p. 48.

63 EU-Ukraine Parliamentary Cooperation Committee, Twelfth Meeting, *Final Statement and Recommendations pursuant to Article 90 of the PCA*, cited above (Note 12) para. 2.

64 Yulia Tymoshenko, cited in: *Tymoshenko: Ukraine and EU will sign Association Agreement by end of year*, 17 June 2009, forUm, at: <http://en.for-ua.com/news/2009/06/17/141742.html>.

65 Yulia Tymoshenko, cited in: *Yulia Tymoshenko hopes today's sitting of Ukraine-EU Cooperation Council to give powerful impetus for Ukraine's accedence to the EU*, Webportal of Ukrainian Government, at: http://www.kmu.gov.ua/control/en/publish/article?art_id=222866500&cat_id=156277122.

66 *Joint Declaration of the Prague Eastern Partnership Summit*, Brussels, 7 May 2009, 845/09 (Presse 78).

67 Cf. *Yushchenko nedovolen peregovorami s Evrokomissiey* [Yushchenko is not happy about the talks with the European Commission], Korrespondent.net, 31 July 2009, at: <http://korrespondent.net/ukraine/politics/919470>.

Summing up, while some progress has been made towards Ukraine's integration in the EU and NATO, these goals seem to conflict with Russian-Ukrainian relations, which have been deteriorating. This means that the task of harmonizing these two strategic directions of Ukraine's foreign policy remains relevant and acute. This harmony concerns both domestic and foreign policy: Ukraine's politicians have to come to some sort of consensus, but there also has to be more harmony among the population, especially in promoting the benefits of NATO membership. In terms of foreign policy, Ukraine finds itself between a rock and hard place. As long as the price that Ukrainians have to pay for closer relations with the EU and NATO membership is the deterioration of relations with Russia, the country's division into pro-Western and pro-Russian regions can only strengthen.

Conclusions

This article has demonstrated that something remains stable in Ukraine following the "Orange Revolution" of 2004 – instability. Above all, this refers to Ukraine's internal political instability, i.e. the political "immaturity" of its leaders, who have been preoccupied with personal ambitions and animosities. On the one hand, internal political instability has been aggravated by economic instability, which brings even more division and conflict among the politicians. On the other, it has negative consequences for Ukraine's economy, as no effective reform can be implemented when the country is politically paralysed. Instability is also evident, however, in Ukraine's inability to harmonize the two priorities of its foreign policy: maintaining positive, constructive relations with Russia while also progressing in its EU and NATO membership aspirations.

While this contribution has exposed these instabilities, it is nevertheless also important to point out that the mass media have been free in Ukraine since the "Orange Revolution". Representatives of different political parties participate in open debates, good critical and objective journalists present the situation in the country in a realistic and fair way. Elections since the "Orange Revolution" have all been fair and free.⁶⁸ These are important achievements for a post-Soviet state, and this progress should not be underestimated. Moreover, Ukraine still has to deal with the pressure of high expectations. Western governments proclaimed the victory of democracy in the course of the success of the "Orange Revolution", but they underestimated the extent to which it was only the start of the reform process. Ukraine still has to overcome the legacies of the past (corruption, old grudges, a lack of fairness in the political culture, etc.). It is a difficult and painful process, which may take many years. Ukraine also faces pressure

68 Cf. Pleines, cited above (Note 14).

both from Russia and from the West regarding its foreign policy. This is the legacy of the past and a consequence of Ukraine's geostrategic location. How to deal with it and how to harmonize these two vectors of foreign policy depends not only on Ukraine itself, but also on Russia and the West and Russian-Western relations. As long as the latter are dominated by mistrust and competition, this will remain a difficult challenge for Ukraine's foreign policy, regardless of who is in power in the country.

At the same time, the leading politicians in Ukraine continue to show that they are not entirely in tune with the goals they have been proclaiming. While representatives of the EU and NATO states tended previously only to encourage Ukraine to proceed on the path of democratic reforms, they have recently been more critical of Ukrainian political leaders regarding their political "immaturity". The latter still have to learn not only to conduct successful and fair elections, but also to work with each other after these elections, to find compromises and working formulas. So far, the freeing of the media and the holding of free and fair elections have been the only demonstrations of the serious intentions of the "Orange" government to transform the country into a democratic state that fulfils all requirements and preconditions for EU and NATO membership. While there has been some progress on Ukraine's path towards integration with the EU and NATO, this has not been thanks to the achievements of the Ukrainian political elites, but rather largely represents a gesture of support and encouragement on the part of the Western institutions. Ukraine's population is still short of information on what it means to be in the EU and NATO and the general fact that democracy is not primarily a matter of economic prosperity.

While relations between Ukraine and the West have been developing and improving, more tensions have been appearing in relations between Ukraine and Russia. Both countries could have prevented many escalations of tension in relations between them, in which even the EU has become involved, if they only put more effort in to doing so. Russia has to learn not to overreact at the thought of Ukraine's leaving its sphere of influence and joining the West. Ukraine has to learn to conduct independent relations with Russia, without expecting economic concessions from it and without thereby providing it with influence and pressure. So far the goal of harmonizing Ukraine's desire for positive and constructive relations with Russia with that of progress down the path towards the EU and NATO has not been attainable.

Ukraine faces many challenges of various kinds. It has been involved in many internal and external crises. It has been trying to solve some of these challenges since the 1990s (how to maintain positive relations with Russia, while progressing on the road to EU and NATO membership), while others – such as those created by the world financial crisis – are new. In January 2010, Ukraine will have a new president. As well as power, he or she will receive many burdens and a great deal of instability. With parliamentary elections

due to take place in 2012, one may assume that even after the presidential elections, politicians will continue to campaign and to fight. In spite of this pessimistic conclusion, the hope remains that new political leaders will gradually emerge who will be free from the old grudges and animosities and therefore able to assess the situation in all its dimensions more pragmatically, and who will search for constructive compromises and working formulas in all areas of Ukraine's domestic and foreign policy. This article started with the citation from a famous fable written by Ivan Krylov. And though it was written in 1814, it seems as if Krylov was describing the contemporary political situation in Ukraine. Maybe Ukraine's current political leaders can learn something from him:

*The moral of the verse is that
Accordance should prevail
Amid the people who have plans
To work but not in vain.*

II.

Responsibilities, Instruments, Mechanisms,
and Procedures

Conflict Prevention and Dispute Settlement

Fighting Domestic Abuse – The OSCE Women’s Access to Justice Project in Albania

Introduction

In this article we shall share the experience of the OSCE Presence in Albania (“the Presence”) in enhancing access to justice for women who have been victims of domestic violence and shall assess the added value of the Presence in assisting the Government in preventing and fighting this form of abuse. By making effective use of its expertise, the Presence has targeted the issues from a strategic perspective and has contributed to: (i) improving the legal protective framework against domestic violence; (ii) raising general public awareness about redress mechanisms available to victims; and (iii) enhancing the capacity of victims’ advocates and justice actors to request the implementation of the law and to ensure it is enforced.

International and Local Dimensions

Domestic violence is a violation of human rights that cuts across all cultural, ethnic, educational, and economic backgrounds. It is a major impediment to the realization of effective gender equality and it imposes heavy human, physical, emotional, and financial burdens on all governments and citizens. Along with other forms of gender-based violence, domestic violence has long received international condemnation, with most governments acknowledging that they have a positive obligation to take effective steps to address this issue. In its efforts to promote the effective implementation of the *UN Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW),¹ the UN General Assembly urged all member states to “exercise due diligence to prevent, investigate and [...] punish acts of violence against women” whether perpetrated by the state or by private actors.² Article 3 of the *European Convention of Human Rights*, which requires all public authorities to take relevant measures to ensure that individuals are not “subjected [...] to inhuman or degrading treatment”,³ has been interpreted by the European Court of Human Rights as including domestic violence by private

1 United Nations, General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, Resolution A/RES/34/180, 18 December 1979.

2 United Nations, General Assembly, *Declaration on the Elimination of Violence against Women*, Resolution A/RES/48/104, 20 December 1993, Article 4 (c).

3 *European Convention for the Protection of Human Rights and Fundamental Freedoms*, Rome, 4 November 1950, Article 3.

persons.⁴ Other non-binding, though equally authoritative, international instruments condemn domestic violence and require governments to adopt policies directed at its eradication.⁵

In line with OSCE commitments, preventing and ending violence against women, including domestic abuse, is also an area of increasing focus for the Presence. These commitments include the *2004 OSCE Action Plan for the Promotion of Gender Equality*, which calls on the OSCE to develop programmes in line with this priority,⁶ as well as *OSCE Ministerial Council Decision 15/2005 on Preventing and Combating Violence Against Women*, which urges participating States to grant women victims full and timely access to justice and effective remedies, and to adopt adequate legislation in this area.⁷

Against this background, the Albanian government has an obligation under international and domestic law,⁸ as well as a moral duty, to take effective action to advance women's rights and to protect them from violence. Indeed, while the lack of official statistics makes it difficult to provide an accurate picture of the situation, domestic violence appears to be common, with several sources stating that more than a third of Albanian women perceive themselves as victims of such abuse.⁹ Nevertheless, such violence is often seen to be a private family matter. A 2006 Presence study showed that, due to ingrained gender bias, crimes of domestic violence are under-investigated,

4 See e.g. European Court of Human Rights, *Case of A. v. the United Kingdom*, judgment, Strasbourg, 23 September 1998, para. 22.

5 Non-binding instruments include the *UN Declaration on the Elimination of Violence against Women*, cited above (Note 2) and *Recommendation 1582 (2002), Domestic violence against women*, of the Parliamentary Assembly of the Council of Europe.

6 Cf. 2004 OSCE Action Plan for the Promotion of Gender Equality, Annex to Decision No. 14/04, MC.DEC/14/04 of 7 December 2004, in: Organization for Security and Co-operation in Europe, *Twelfth Meeting of the Ministerial Council*, 6 and 7 December 2004, MC.DOC/1/04, Sofia, 7 December 2004, pp. 38-53, here: pp. 39-53. *The OSCE Action Plan* was approved in 2004 by the 56 participating states. It calls for gender-mainstreaming throughout the OSCE structures and relevant project activities, including in the area of violence against women.

7 Cf. Decision No. 15/05, Preventing and Combating Violence against Women, MC.DEC/15/05, 6 December 2005, in: Organization for Security and Co-operation in Europe, *Thirteenth Meeting of the Ministerial Council*, 5 and 6 December 2005, Ljubljana, 6 December 2005, pp. 50-54. The Ministerial Council Decision also requires states to adequately train and sensitize public officials in dealing with violence against women and children.

8 CEDAW was ratified by the government in 1993, while the 1998 Constitution prohibits any discrimination on the ground of sex. See *Albanian Constitution*, Article 18, para. 2, available online at: <http://www.ipls.org/services/kusht/contents.html>. See also the Family Code of Albania, which incorporates women's rights on matters covering marriage, divorce and property rights. An unofficial translation may be downloaded from the home page of the Albanian Institute for Policy and Legal Studies, <http://www.ipls.org>.

9 Cf. e.g. Spousal violence affects one in three Albanian wives, at <http://www.newswise.com/articles/view/513263>. According to the government, unofficial data indicates that one third of women experience domestic abuse. See also the Albanian Ministry of Labour, Social Affairs, and Equal Opportunities' *National Strategy on Gender Equality and Domestic Violence 2007-2010*, an unofficial translation of which is available at: http://www.osce.org/documents/pia/2008/07/32216_en.pdf. The Action plan for its implementation was adopted by the Albanian Council of Ministers on 19 December 2007 (Decision No. 913).

under-prosecuted, and under-punished by the judicial system.¹⁰ The poor performance of the judicial system vis-à-vis women victims of these crimes is not an isolated phenomenon, but the expression of a challenging situation regarding the status of women. In spite of some improvements in the lives of Albanian women, factors such as social and economic subordination, as well as patriarchal and conservative cultural attitudes still seem to run deep. This fosters a climate where gender-based discrimination and ignorance of women's rights are widespread, and where abuses committed against women by those closest to them are condoned and/or tolerated, including by the judicial system. To compound the judicial system's poor performance in this area, the majority of women, as a result of their marginalization, are unaware of their rights and the remedies available to them if these rights should be violated. Legal services also are often too costly and inadequate to respond to the needs of victims. While domestic violence cuts across social lines, occurs in all economic and cultural contexts, and is as common in the cities as in the countryside, its effects are perhaps more heavily felt in rural areas, where victims have even less awareness of their legal rights and/or access to legal assistance.

The 2006 Domestic Violence Law

Promoting gender equality and fighting violence against women have been put firmly on the Albanian government's agenda in an attempt to fulfil EU criteria. In December 2006, the Albanian Assembly approved the Domestic Violence Law.¹¹ While the adoption of this law was promoted by civil society,¹² the Presence played an important role along with other international partners in assisting its drafting in line with international standards and best practices. Throughout 2005 and 2006, the Presence worked with the Citizens' Advocacy Office¹³ to try to convince NGOs that it was important to focus on protecting victims first and then on punishing offenders. For this reason, the law concentrates on providing protection orders through civil proceedings.

The law seeks to prevent and reduce domestic abuse in all its forms and to protect those who are victimized by it, primarily women. Under the law, domestic violence is defined as violence taking place between current or former spouses or intimate partners or other persons in a family relationship. This can take many forms, including, physical, sexual, economic, and emo-

10 Cf. OSCE Presence in Albania, *Analysis of the Criminal Justice System of Albania*, Tirana 2006, p. 9, at: http://www.osce.org/documents/pia/2006/11/21952_en.pdf.

11 Law No. 9669, dated 18 December 2007, *On Measures against Violence in Family Relations*, as amended by Law No. 9914, dated 12 May 2008, *On some Additions to Law No. 9669, dated 18 December 2007* [hereinafter Domestic Violence Law]. The Law entered into force in June 2007.

12 Several NGOs, led by the Citizens' Advocacy Office, presented the draft law to the Assembly together with a petition with over 20,000 signatures.

13 Considered to be one of the leading NGO proponents of this law.

tional abuse.¹⁴ For the first time, domestic violence victims can petition the civil courts, requesting them to issue protection orders against their abusers to stop or prevent the violence committed against them and/or their children. They can do this through a swift, affordable, and simple procedure.¹⁵ Women requesting the issuance of protection orders can do so for free and without necessarily seeking legal assistance. By issuing a protection order, the judge can take several measures in an attempt to stop or prevent such violence. He or she may, for instance, order the abuser to leave the common house and not approach or communicate with the victim and her children while obliging him to pay financial support.¹⁶ While this law is a matter for the civil courts, it does provide that a violation of a protection order is a criminal offence, and that prosecutors are responsible for intervening in criminal cases.¹⁷

The law provides that every sector of society must play a role in addressing domestic violence. While the Ministry of Labour, Social Services, and Equal Opportunities is responsible for the formal co-ordination of the law's implementation, the Ministries of Justice, Health, and the Interior, as well as local government, all have a role to play by building up their abilities to prevent and respond to domestic violence cases. NGOs can also provide social services to victims and perpetrators.¹⁸ In December 2007, with the adoption of the *Strategy on Gender Equality and Domestic Violence* and the Action Plan, the Government reiterated its commitment to gender mainstreaming in public policy and to tackling the issue of domestic violence.

The OSCE's Role in Enhancing Access to Justice for Victims of Domestic Violence

While the adoption of the Domestic Violence Law was an important step in the fight against domestic violence, it is essential to ensure that the judicial system called upon to enforce it understands its scope and content. It is also important that the judiciary works together with civil society to guarantee effective protection to domestic violence victims. In order to address these issues, the Presence initiated the *Women's Access to Justice* project in 2007. The underlying approach taken by the Presence was that this form of abuse was a human rights violation and that the government had an obligation to take effective measures to address this problem. The project's aim, therefore, was to increase access to justice for victims of domestic violence by assisting the government in strengthening its capacity to prevent and redress the problem. The project was developed in line with the overall aim of promoting a fair, effective, and equitable judicial system – bearing in mind the OSCE

14 Cf. *Domestic Violence Law*, cited above (Note 11), Article 3.

15 Cf. *ibid.*, Articles 2, 10, 12, 17, and 18.

16 Cf. *ibid.*, Article 10.

17 Cf. *ibid.*, Articles 23 (6) and 24.

18 Cf. *ibid.*, Articles 5-8.

2004 Action Plan for the Promotion of Gender Equality. The Project aimed to enhance access to free legal advice and to a fair judicial system while increasing women's demand for justice by using affordable and effective redress mechanisms. The project looked to build expertise of the law and of remedial actions among individuals called to assist victims of domestic violence (pro bono lawyers and NGO representatives) and those responsible for enforcing the law such as the police, judges, prosecutors, and bailiffs. It also sought to increase public awareness of domestic violence and the new protection order law among women victims, civil society, and the public at large. In the medium to long term, the project aimed to reduce and eliminate the recurrence of this form of gender-based violence. In accordance with its objectives, the project targeted justice officials, police, lawyers, social workers, NGOs, women victims of domestic violence, journalists, and the wider public.

Bridging the Gap: Creating Empathy in the Justice System

The existence of a fair and accessible justice system capable of enforcing the law without discrimination is an indispensable tool in the fight against domestic abuse and encourages women to seek redress. Between April and September 2007, in co-operation with the Council of Europe (CoE), the Albanian School of Magistrates, and the Ministries of Justice and the Interior, the Presence hosted seminars for some 300 judges, prosecutors, police, and bailiffs on the new Domestic Violence Law. Held in major cities across the country and delivered by international and local experts, the seminars stressed the role of each different actor in enforcing the law, and raised their awareness of the causes and consequences of domestic abuse. Role-play exercises familiarized police officers, prosecutors, and judges with issues specific to handling domestic violence cases. Exercises were undertaken to build the participants' interviewing skills, as well as the judges' ability to hear protection order cases. While focused on the protection order scheme, the sessions also covered international legal standards, aspects of criminal law, as well as the judicial system's responsibility to investigate, prosecute, and punish domestic violence crimes. Finally, the training provided participants with the practical skills to request and issue protection orders against perpetrators of domestic violence in the context of simulated police interviews and court hearings. To facilitate justice actors in their work, standard pre-printed protection order forms were developed and distributed to all police and judges.

The provision of free expert legal assistance in domestic violence cases is fundamental to encouraging women to seek redress for the crimes they have suffered where they are unable or unwilling to do so unaided. Training sessions not only addressed actors in the justice system, but were also held to build the capacity of civil society to assist and represent domestic violence victims – i.e. to increase *demand* for protection orders. In March and September 2007, approximately 60 NGO representatives (including lawyers, law students, and social workers) were trained in Shkodra, Tirana, and Vlorë on how to provide legal and social assistance to victims of domestic violence. Participants received information on the new protection order law, on safety and confidentiality issues when dealing with domestic violence cases, and on basic approaches to providing legal, social, and psychological support. Emphasis was placed on providing participants with the practical skills to assist victims in preparing petitions for protection orders, or to act on their behalf, as provided under the law.¹⁹ The training also included sessions on co-operation with law enforcement authorities and the basics of licensing, fundraising, and campaigning techniques tailored to meet the needs of NGOs working in this area. The workshops, which were held in co-operation with two NGOs, provided a valuable forum for sharing experience and increasing co-ordination, including by laying the groundwork of a strategy to set up local referral systems in domestic violence cases.

Raising Awareness

Raising awareness of domestic violence is the best preventive strategy. Increased understanding of the causes and consequences of domestic violence and the redress mechanisms that exist can, in the long term, contribute to a change in mentality, thus reducing the recurrence of this phenomenon. In the context of the project, the Presence undertook an awareness campaign targeting a variety of audiences. In 2007, the Presence published the handbook *Seeking Protection from Domestic Violence* to raise awareness of the causes and consequences of domestic violence, explain the new law, and provide guidance to victims of abuse, NGOs, and lawyers on how to file requests for civil court protection orders. The handbook contains information for NGOs that provide psychosocial and legal support in domestic violence cases, and has been well used by these NGOs in the context of individual counselling sessions as well as community workshops and awareness-raising activities. While the handbook was initially conceived primarily as a resource for NGOs, victims, and law enforcement officials, it has increasingly been

19 The law allows certified NGOs to file petitions for protection orders directly with the court on behalf of victims of abuse.

shown to be a valuable tool in efforts undertaken by international actors to raise awareness of the problem of domestic violence and the new law. On the International Day for the Elimination of Violence against Women on 25 November 2007, the Council of Europe distributed the book *Seeking Protection from Domestic Violence* to Albanian parliamentarians in the context of its 2006-2008 campaign. The handbook was also used as training material by international donors such as UNDP and UNIFEM in workshops targeting police, district court, and local government officials, and education institutions as well as by the Albanian Association of Social Workers. The handbook was distributed to all university law faculties in Albania and several such institutions in other countries, and to students in the Faculty of Sociology at the University of Tirana, lawyers working on domestic violence cases, and the media.

To assist judges in the interpretation and application of the Domestic Violence Law, the *Albanian Judicial Bench Book on Protection Orders* was published in co-operation with USAID. Conceived as a “working tool”, the manual highlights the role played by the courts in preventing and punishing domestic violence and provides judges with guidance in implementing the law. For example, it gives judges practical tips on how to hold protection-order hearings and issue civil protection orders against perpetrators of abuse. The book was distributed to all serving judges and is reportedly also being used by family judges. It is also being used by the School of Magistrates, the Tirana-based entity responsible for the education and training of all judges in Albania, as teaching material for classes on Family Law and in its continuing legal education training curriculum. Sample petition forms for requesting and granting protection orders were prepared and widely disseminated to facilitate the implementation of the law. Although new to Albania, the standard forms are currently being used by domestic violence victims, lawyers, police officers, prosecutors, and NGOs. Reportedly, due to their clear layout and comprehensiveness, judges have begun to accept these forms and have taken decisions on their basis.²⁰ In December 2008, upon request of the Ministry of Labour, Social Affairs, and Equal Opportunities, the Presence published brochures and posters to raise awareness of the phenomenon of domestic violence and the new law. The brochures explain the procedure for requesting protection orders and contain the contact numbers of the police, shelters, and NGOs that provide assistance to victims of domestic violence. The material was distributed to regional directorates for employment, regional offices of the State Social Service, prefectures, labour unions, and local government authorities. The publications and material developed under the project can also be downloaded from the Presence website.²¹

20 Judge Rezarta Vigani interviewed by Ama Kraja at Tirana District Court, 14 February 2008; Judge Fida Osmani interviewed by Ama Kraja at Tirana District Court, 9 April 2008.

21 At: <http://www.osce.org/albania/documents.html?lsi=true&limit=10&grp=404>.

The Presence has relied on its unique expertise to provide targeted and comprehensive technical assistance to the government and civil society in building their capacity to address these challenges. First, it has contributed to improving the legal framework protecting women from violence by supporting the drafting of the *2006 Domestic Violence Law*. Through various seminars, the Presence has contributed to increasing knowledge among justice professionals as well as NGOs about domestic abuse, and has helped to establish a cadre of professionals able to respond to and deal with such cases.²² By bringing together participants from different professions, OSCE training has laid the foundations for a more co-ordinated response to this problem. As a result of OSCE activities involving judges and other justice actors, women victims of domestic abuse have seen the chances of justice being done and their obtaining legal redress for the violence they have suffered improve – even if there are still no guarantees. Presence activities also contributed to increasing access to justice for disadvantaged women by promoting the use of NGO professionals as a cost-effective alternative to lawyers. By doing this, the Presence has assisted in creating a “critical mass” of people who are capable of assisting victims and committed to doing so. As a result of the training and public awareness campaigns, victims of abuse and NGOs have become more knowledgeable about domestic abuse and the legal framework for fighting it, and are increasingly seeking redress by applying for court protection orders. Trained judges and other legal professionals are now aware of their roles in implementing the law. The standard, pre-printed petitions for protection orders prepared and disseminated by the Presence have served to kick-start the protection order process.

Project activities have also found international resonance, as the project materials were included in the UN *Stop Violence Against Women* website,²³ and have served as a model for other OSCE missions working in this area. While it is too early to measure the real impact of Presence assistance in fighting domestic violence, the Presence’s work has undoubtedly created the preconditions for the effective operation of the protection order scheme. It remains to be seen whether, in the medium to long-term, domestic violence crimes decrease, are adequately addressed, and are investigated and punished.

22 Some police officials trained by the Presence have become trainers in later workshops organized by UNDP.

23 At: <http://www.stopvaw.org/Albania.html>.

In spite of recent steps taken by the government to promote women's rights, including approval of the *Law on Gender Equality in Society* in July 2008,²⁴ more needs to be done to promote gender equality, the lack of which is often a root cause of violence against women. Improved legislation alone is insufficient to protect women from discrimination. As in other countries, inequality persists in the form of stereotypes regarding gender roles, while women are still currently under-represented at the highest levels of public life and in the job market. The Albanian government should look to step up its efforts to build the capacities of those state institutions called upon to implement the laws, while also raising public awareness about women's rights. Promoting and increasing the active participation of women in politics is also crucial to furthering gender equality, and an area where the Presence has once again shown leadership by developing a project in support of the government's efforts.²⁵ The latter should also renew its commitment to implement effectively both the *Gender Equality Law* and the *National Strategy on Gender Equality and Domestic Violence* by taking initiatives that are timely, co-ordinated, and adequately funded. It is hoped that continued Presence assistance in drafting the relevant secondary legislation and in promoting the institutional profile of the Directorate of Equal Opportunities, will ultimately contribute to this aim.

Turning to the specific problem of domestic abuse, the challenges looming ahead are clearly multi-faceted. Official data on the prevalence and consequences of domestic violence (as well as on the use of protection orders by the court) is urgently needed. In order to assess effectiveness and to determine what steps need to be taken next, such data now also needs to be complemented by independent evaluations of the initiatives undertaken so far. Furthermore, a more co-ordinated approach to protecting and assisting victims is needed among state authorities and in establishing partnerships between government and civil society. Under the leadership of local NGOs, forums and referral systems have been established in a number of cities, which bring together representatives of the police, local government, the judiciary, healthcare institutions, social service agencies, and NGOs. This model now urgently needs to be replicated in all regions of the country, with the government taking a proactive role. Such an approach needs to be supported by sufficient funding and resources to ensure victims receive adequate assistance through the establishment of shelters, crisis intervention centres, telephone hotlines, and other resources, as well as to sustain progress in the

24 Law No. 9970, dated 24 July 2008, *On Gender Equality in Society*, which entered into force on 16 August 2008.

25 The OSCE Presence "Women in Governance" project is due to be implemented between 2009 and 2011. The project aims to support women leaders across the political spectrum, provide a platform for mutually reinforcing networking, and bolster the public authorities' response to women's needs at central and local level.

long term. As prevention is better than cure, more needs to be done to educate and inform citizens, civil society, and government representatives about women's civil, political, social, and economic rights. Educational and awareness-raising programmes must target several audiences: not just women (to make them aware of their rights), but also men, children, and teenagers. Information on violence against women and domestic abuse therefore needs to be adapted and incorporated into the curricula of various educational institutions. This training needs to be institutionalized and held on a regular basis.

Given the overarching nature of its mandate, which ranges from supporting civil society, via media development and electoral reform, to advancing the rule of law, the Presence is well placed to continue assisting the government in improving its record regarding domestic violence as Albania prepares for further integration with the EU. This can be done while recognizing that local ownership and political will are key factors for achieving sustainable results.

Military Aspects of the OSCE Mission to Bosnia and Herzegovina

Introduction

During 2008, through its Department of Security Co-operation (DSC), the OSCE Mission to Bosnia and Herzegovina continued to assist Bosnia and Herzegovina in integrating its fledgling defence sector with its overarching security sector needs. Throughout the year, the need for a more comprehensive approach to fulfilling these needs became increasingly apparent and reconfirmed the importance of raising awareness about the OSCE participating States' commitments to establishing and maintaining democratic control of Europe's security sectors. The role of the military structures of Bosnia and Herzegovina and their ongoing restructuring would serve as useful examples for discussion and project implementation in other areas of security.

Recognizing that Bosnia and Herzegovina has a long history of multicultural and inter-religious co-existence and that it is, at the same time, a relatively young state, the OSCE Mission to Bosnia and Herzegovina and the DSC have accepted the fact that developing a peaceful, democratic state with a functional security sector is an arduous process. This is better understood when considering that, while 13 years have passed since the signing of the peace agreement that ended the war in Bosnia and Herzegovina, the state-level security sector that the Mission now works with is much younger, having been massively overhauled to create a unified armed forces in 2006, following the completion of the Defence Reform Commission's 2005 report. This reformed state security sector requires significant support to meet the expectations placed on it.

The OSCE Mission to Bosnia and Herzegovina has contributed significantly to politico-military aspects of security in Bosnia and Herzegovina. It has promoted the fulfilment of confidence- and security-building measures between the entities and state authorities and assisted in the establishment of a unified armed forces that is commanded and controlled at the state level and overseen through a process of democratic controls.¹ It continues to assist in the implementation of a sub-regional arms control regime and also supports the democratic rehabilitation of the security sector.

These efforts are testament to the hope that Bosnia and Herzegovina will become a strong participant in the OSCE and will increasingly determine its own future through democratic means. However, the OSCE Mission does

¹ The state of Bosnia and Herzegovina consists of two entities, the predominantly Serb Republika Srpska and the predominantly Bosniak-Croat Federation of Bosnia and Herzegovina.

not only rely on hope; it plans and operates a series of projects that are dedicated to increasing the skills and knowledge required to operate and manage democratic security structures.

Following the enactment of the General Framework Agreement for Peace in Bosnia and Herzegovina (GFAP) in 1995,² Bosnia and Herzegovina joined the pool of new European states that were emerging from the fragments of former socialist and communist countries and entering into the international arena with the great challenge of transitioning to democratic forms of government. With so many models of democracy to choose from, guidance was required; but with so much pride at stake, the guidance provided had to be carefully assessed.

Ever since the OSCE Mission to Bosnia and Herzegovina was established, the OSCE's international advisors have been urged to bear in mind that Bosnia and Herzegovina emerged from the Socialist Federal Republic of Yugoslavia as a fragmented country, with exhausted citizens and a depleted treasury. By joining the OSCE in 1992, the country's leaders signified their intention to have their new sovereign state develop into a democracy. Nearly four years later, they agreed that developing democratic processes and institutions would require assistance, not only to formulate a peace agreement to end the fighting, but also to implement that agreement. They called on the OSCE to support this process.

Asking the OSCE for support meant turning to a community of states that have already agreed on a set of shared principles, normative measures, and best practices for enhancing and/or maintaining co-operative security. Specifically, the international community intended that Bosnia and Herzegovina and the other parties to the GFAP would use the OSCE as an instrument for creating and/or improving dialogue and, most importantly, preventing internal conflict.

Our approach is one of co-operative security based on democracy, respect for human rights, fundamental freedoms and the rule of law, market economy and social justice. It excludes any quest for domination. It implies mutual confidence and the peaceful settlement of disputes.³

To promote its tenets and implement its GFAP tasks, the OSCE established its Mission to Bosnia and Herzegovina. Annex I-B of the GFAP assigned the OSCE the role of regional stabilization by assisting in the implementation of the agreements on confidence- and security-building measures (Annex I-B,

2 *General Framework Agreement for Peace in Bosnia and Herzegovina* (Dayton Peace Accords), initialled in Dayton, Ohio, USA, on 21 November 1995, and later signed in Paris, France, on 14 December 1995.

3 Lisbon Declaration On A Common And Comprehensive Security Model for Europe for The Twenty-First Century, in: Organization for Security and Co-operation in Europe, Lisbon, 1996, Lisbon Document 1996, 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, p. 426.

Article II) and on sub-regional arms control (Annex I-B, Article IV). Upon its establishment, the Mission created a specialized department (now referred to as the DSC) to work towards the fulfilment of these tasks. This department has evolved alongside Bosnia and Herzegovina's security sector both to complement the increased domestic capacity and to support the existing requirements.⁴ The Department's mandates and objectives were transformed yet again in 2006, following the approval of the Bosnia and Herzegovina Defence Reform Commission's 2005 report and the adoption of the new Law on Defence of Bosnia and Herzegovina. The new Law on Defence⁵ formally established a unified Bosnian-Herzegovinian armed forces, accountable to the state of Bosnia and Herzegovina, and abolished the entities' armies and ministries of defence.

Thus began a new era of politico-military affairs in Bosnia and Herzegovina. In developing its objectives for the future, the OSCE Mission looked to its experience in transforming the military structures in Bosnia and Herzegovina, its tasks under the GFAP (Article IV on sub-regional arms control in particular, Article II having been completed with the formation of the unified armed forces), and especially Bosnia and Herzegovina's OSCE commitments.

Tasks under OSCE Politico-Military Commitments

The OSCE has a special relationship with Bosnia and Herzegovina. Not only is Bosnia and Herzegovina a participant in the Organization, but the Organization is a significant participant in the shaping of Bosnia and Herzegovina. The overall goal is "to establish the conditions in which military force can be eliminated as a means of resolving conflicts in Bosnia and Herzegovina".⁶ The OSCE Mission's DSC is responsible for guiding and assisting the country in fulfilling its obligations within the OSCE's politico-military dimension.

The DSC is the only department of its kind in the OSCE structures within South-eastern Europe. Whereas other OSCE field presences in the sub-region have politico-military officers, or political officers with secondary functions, the Mission to Bosnia and Herzegovina has an entire programme established to work on politico-military requirements in Bosnia and Herzegovina and also to assist with politico-military projects throughout the sub-region.

4 For a detailed description see Heinz Vetschera, From Regional Stabilization to Security Co-operation in Bosnia and Herzegovina – The Role of the OSCE Mission, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2004*, Baden-Baden 2005, pp. 381-412.

5 The new law was enacted on 1 January 2006, replacing the previous Law on Defence of Bosnia and Herzegovina (2003).

6 Quoted in Marcel Stoessel, The role of OSCE in Bosnia and Herzegovina, in: Graduate Institute of International Studies 1/2001, p. 23.

It is able to function successfully because it maintains its own collection of experts and has a budget to run its own programmes, which is overseen by a director and executed through three sections, each of which focuses on a specific topic related to increasing democratic control over politico-military aspects of security in Bosnia and Herzegovina or the security sector.

By means of focused and collaborative projects, these sections are responsible for assisting the leaders and managers of the security sector in Bosnia and Herzegovina. Their activities have raised awareness of democratic principles among politicians, civil servants, and military professionals with the intention of decreasing the threat of another conflict; they have also promoted the use of OSCE instruments to alleviate obstacles to progress.

These instruments include a series of documents and decisions that give advice on politico-military aspects of security and place commitments on participating States. Among the most influential are the OSCE Code of Conduct on Politico-Military Aspects of Security, the OSCE Document on Small Arms and Light Weapons, the OSCE Document on Stockpiles of Conventional Ammunition, and, in the area of parliamentary oversight, the July 2006 Brussels Declaration of the OSCE Parliamentary Assembly, which calls for parliamentary oversight of security and intelligence agencies. The Department looked to all of these when defining its new objectives for 2008.

In setting its programme objectives for 2008, the Department drew particularly on the OSCE Code of Conduct on Politico-Military Aspects of Security, which will continue to influence planning for the following years.

The Code of Conduct “intrudes into an area of state power which has hitherto been considered a *sanctum sanctorum* – the armed forces”.⁷ As democracy – which is indispensable for stability and security – has become essential to the philosophy of governance in Bosnia and Herzegovina, the armed forces have had to be transformed accordingly. This has been done by placing the state’s security sector institutions, comprising the armed forces, the state Intelligence and Security Agency, and state police forces, under democratic civilian control.⁸

Although the Code is only “politically binding”, Bosnia and Herzegovina and all the other participating States are expected to abide by its provisions for achieving and attempting to sustain security and stability within their own borders and across the region. We are well aware that internal strife can easily spill across frontiers, threatening international peace and security.

One way of maintaining security and stability is through the democratic control of the armed forces and the police; they possess weapons of law and steel and if left uncontrolled, can threaten the civil population that they were established to protect and serve.

7 Victor-Yves Ghebali, Revisiting the OSCE Code of Conduct on Politico-Military Aspects of Security (1994), in: Heiner Hänggi/Theodor H. Winkler (eds), *Challenges of Security Sector Governance*, Münster 2003, pp. 85-117, here: p. 109.

8 Cf. *ibid.* p. 87.

In his 1962 thesis on the role of the military in politics, Samuel Edward Finer wrote that “the army is a purposive instrument [...] It is rationally conceived to fulfil certain objects. One may be to assist the civil power, but the principal object is to fight and win wars.”⁹

Understanding that the former armies in Bosnia and Herzegovina were established under wartime conditions with the purposes that Finer ascribes to armies in general, those developing the unified Armed Forces of Bosnia and Herzegovina (AFBiH) took care to consider the evolution of military purpose in the post Cold-war era. The AFBiH was therefore envisioned to meet the contemporary needs of the early 21st Century.

In addition to defending the territorial integrity of Bosnia and Herzegovina, the AFBiH are expected to support the policies and priorities of Bosnia and Herzegovina and its political alliances and to contribute to peace support operations abroad. The AFBiH are to co-operate with Bosnia and Herzegovina’s civil authorities to protect the safety and security of the country’s inhabitants in times of natural and man-made crisis within the territory of the state. Most importantly, the AFBiH and all other participants in the security sector of Bosnia and Herzegovina are expected to adhere to national and international laws, especially international human rights laws.

In this context, the DSC determined that it could benefit the security sector of Bosnia and Herzegovina by working closely with all its authorities to ensure that its institutions received similar opportunities to increase their knowledge of OSCE expectations.

It is important to note that the OSCE Mission to Bosnia and Herzegovina continues to be available to *assist* Bosnia and Herzegovina’s authorities to meet their politico-military objectives but does not attempt to *impose* its rules and provisions; hence, the DSC has aimed to ensure that more responsibilities are taken over by the relevant authorities so that Bosnia and Herzegovina can be an effective player in the international arena and maintain peace and stability in the region on its own.

Arms Control Section

In 2008, the Arms Control Section of the DSC worked to improve Bosnia and Herzegovina’s compliance with the variety of arms control commitments to which it has committed itself, including the OSCE Document on Small Arms and Light Weapons (SALW), the OSCE Document on Stockpiles of Conventional Ammunition, the Document on Conventional Arms Transfers, the Vienna Document 1999 (VD 99), and Article IV of Annex I-B of the GFAP.

The first three documents are politically binding agreements for the management and security of small arms and light weapons and all-calibre ammunition, including the elimination of excess and dangerous stockpiles

9 Samuel E. Finer, *The Man on Horseback: The Role of the Military in Politics*, London 1962, p. 7.

and progress towards domestic capacity. The final two concern large-calibre weapons. While VD 99 covers all OSCE participating States and is politically binding, Article IV is a legally binding agreement between four states in the sub-region: Bosnia and Herzegovina, the Republic of Croatia, Montenegro, and the Republic of Serbia.

Obligations are derived from each of these documents and, as a participating State, Bosnia and Herzegovina has agreed to fulfil many commitments each year, including exchanges of information and inspections that it must allow to occur within its territory and which it may conduct in others', as agreed. For example, in accordance with VD 99, Bosnia and Herzegovina is subject to a verification regime that obliges it – alongside the other 55 participating States – to accept a number of inspections per year that depends on the number of active units.

Bosnia and Herzegovina has an existing surplus of approximately 30,000 tons of ammunition and explosives produced before and/or during the 1990s war that have surpassed their expiry dates; they are considered unsafe and unstable and pose a significant risk to the population and the environment. In addition, securing these munitions imposes a significant cost to the state in terms of both finances and manpower.

To transform existing storage practices, the Department participates in an expert working group on surplus weapons and ammunition, which serves to advise the Ministry of Defence of Bosnia and Herzegovina and the international politico-military community on best practices and guidelines for managing stockpiles of munitions, disposal methods, and capability requirements.

Department officers also meet regularly with political leaders and defence experts to make them aware of the OSCE instruments and to advise them that the preferred method of disposal of surpluses is destruction. For example, during a workshop on SALW issues organized by the DSC and the Office of the United Nations Development Program (UNDP) in Bosnia and Herzegovina for the members of the Bosnian-Herzegovinian Parliamentary Assembly Joint Committee on Defence and Security, the DSC Director explained that the OSCE Document on Stockpiles of Conventional Ammunition offers participating States a means by which to request specialized assistance¹⁰ from one another.

The outcomes of the Arms Control Section's activities indicated the need for improvement in many areas, especially inter-ministerial and inter-agency co-operation and co-ordination. The low level of co-operation in 2008 limited the achievement of one of the DSC's goals: to improve the management and security of small arms, light weapons, and all-calibre ammunition,

10 See Organization for Security and Co-operation in Europe, *OSCE Document on Stockpiles of Conventional Ammunition*, FSC.DOC/1/03, 19 November 2003, here: Section I: General Principles.

including the elimination of excess and dangerous stockpiles and progress towards increased domestic capacity.

Since the establishment of the AFBiH in 2006, it has not been possible to develop an effective, sustainable disposal plan for surplus SALW due to internal disagreements within the Ministry of Defence and a lack of political will to agree on the method of disposal of surplus items.

Although the Department, UNDP, the European Union's military presence in Bosnia and Herzegovina (EUFOR Althea), and NATO Headquarters Sarajevo all made attempts to encourage the development of political will to destroy surplus weapons and ammunition and also to increase the domestic capacity for doing so, the actual pace of destruction¹¹ did not increase, and neither did domestic capacity. In fact, the only storage sites to be closed during 2008 were those that simply had their contents moved to other locations.

The lack of political consensus on legislative reform also affected the Department's goals, in particular the entities' practice of blocking any legislative change that is interpreted as transferring competencies from them to state level in order to protect their interests. The Parliamentary Assembly of Bosnia and Herzegovina did not adopt the Draft Law on Weapons or the Draft Law on the Control of Movement of Weapons and Military Equipment. These would have increased the state's control over the possession of weapons and the transportation of weapons within Bosnia and Herzegovina.

Bosnia and Herzegovina did, however, succeed in providing most of the OSCE exchanges of information on time and in the proper form, albeit with the assistance of the DSC. The Department continued to organize workshops, briefings, and consultations to improve the quality of information exchanges and planned to reduce the assistance provided to the Ministry of Foreign Affairs in preparing information exchanges; however, due to the Ministry's restructuring in late 2008 and insufficient numbers of staff, it was unable to fully meet all the requirements in this area.

Parliamentary Section

The Parliamentary Section supported the Parliamentary Assembly of Bosnia and Herzegovina in exercising its authority to carry out oversight of the security sector. It did this by working closely with two parliamentary joint committees formed by members of both houses of the Parliamentary Assembly.

The Joint Committee on Defence and Security oversees the programmes, activities, and budgets of the Ministry of Defence, Ministry of Security, State Border Police, State Investigation and Protection Agency, National Interpol Office, and the Mine Action Centre of Bosnia and Herzegovina.

¹¹ Less than half of surplus weapons have been destroyed.

The Joint Committee for the Oversight of the Intelligence and Security Agency of Bosnia and Herzegovina oversees the programme, activities, and budget of the Intelligence and Security Agency of Bosnia and Herzegovina. It also monitors the implementation of the Law on Protection of Secret Data. Both Joint Committees report to the Parliamentary Assembly about their respective activities and findings and their opinions on draft legislation that affects the proceedings of the security sector, and give their opinions on the security policy of Bosnia and Herzegovina.

In 2008, the Parliamentary Section co-organized workshops, seminars, and round tables to make specialized knowledge and skills more accessible. For example, the Section conducted a seminar together with the Konrad Adenauer Foundation on how to involve party caucuses in the democratic oversight of the security sector. Another example is the ongoing Secret Data Procedures Project. Initiated in 2007, this project seeks to harmonize the handling of secret data with EU standards. It resulted in the Agreement on Exchange of Secret Data between Bosnia and Herzegovina and the Slovak Republic that was signed in May 2008. This was the first agreement of this kind that Bosnia and Herzegovina has signed with a EU country.

The Parliamentary Section also assisted the two Joint Committees by supporting, and often organizing, a series of study visits to other European capitals, which helped the Committees' members to increase their awareness of methods used to perform parliamentary oversight of the security sector. Following a visit of the Committee to the German *Bundestag*, the German Armed Forces Commissioner visited Bosnia and Herzegovina in 2008 to give a presentation on his function and the legal basis of his office. As a result of this, the Parliamentary Assembly put into its own legislative procedure a draft law to establish a Military Commissioner for Bosnia and Herzegovina.

Representatives of both the Parliamentary Assembly and Intelligence and Security Agency of Bosnia and Herzegovina visited the OSCE Conflict Prevention Centre and the OSCE Action against Terrorism Unit in December 2008 to study the practical application of parliamentary oversight and its transfer to the executive. This visit served to highlight the OSCE's partnership capabilities and how this partnership affects the relationships between the 56 participating States in terms of conflict prevention and combating terrorism.

In addition to studying methodology, the members of the Joint Committees were supported in deepening their understanding of specific issues, such as the status of surplus SALW in Bosnia and Herzegovina, as well as with drafting legislation and defending their opinions. The Parliamentary Section provided both Joint Committees with legal and issue-specific expertise aimed at helping them improve their oversight work and encouraging the executive branch to respect their authority.

Institutions Building

For a democracy to function, a state needs to have appropriate and effective institutions that can fulfil the demands of the legislative and executive branches. With regard to the security sector, the Ministry of Security and the Ministry of Defence of Bosnia and Herzegovina, in particular, should meet the requirements of democratic control by placing civilian ministers at the head of each sector and by educating and training the armed forces on democratic principles.

In 2008, the Institutions Building Section supported security sector reform by assisting the state-level security institutions in understanding the principles of the OSCE politico-military commitments and by promoting these principles itself, which include measures to ensure that the state's security and defence policy are consistent with international law.

The Section's primary focus was to support ministries and agencies in implementing the Security Policy of Bosnia and Herzegovina that was adopted by the Presidency in 2006. The Section worked closely with the Bosnian-Herzegovinian Inter-ministerial Working Group for Monitoring Security Policy Implementation and Training (IMWG), which was established by the Council of Ministers of Bosnia and Herzegovina in 2006 to monitor and co-ordinate all activities pertinent to the implementation of the Security Policy.

Through its work with the IMWG, the Institutions Building Section endeavoured to create links between Bosnia and Herzegovina's institutions and advance their mutual co-operation. Due to structural changes in some ministries and institutions, awareness of responsibilities and capacities is limited, and the Section has to encourage co-operation between them. However, the defence and security institutions did strengthen their capabilities and increase their capacity for co-ordination. They illustrated this through participation in co-operative initiatives.

For example, in June 2008, the Department of Security Co-operation and the Ministry of Defence, in co-operation with the German Command and General Staff College, conducted a seminar on the conditions and procedures for making decisions at politico-military level about whether to deploy Bosnian and Herzegovinian forces on Peace Support Operations abroad. Participants included Members of Parliament, executive and senior level officials of the AFBiH, Ministry of Defence, and Ministry of Security, and senior representatives of the Presidency and the Council of Ministers of Bosnia and Herzegovina.

The Institutions Building Section also raised awareness of OSCE politico-military commitments through seminars on the OSCE Code of Conduct on Politico-Military Aspects of Security. Four such seminars were conducted with the Ministry of Defence of Bosnia and Herzegovina for officers

of the armed forces and senior officials from the civilian security sector, including police officials from the entities.

The seminars not only served to explain the Code, but also to demonstrate how the participants might develop their own system for training their personnel in its principles. More than 300 officials have participated in seminars over the years.

Dayton Peace Accords Annex 1-B and Support for Article IV

Apart from assisting Bosnia and Herzegovina in fulfilling its obligations as a participating State within the OSCE's politico-military dimension, the OSCE continued to assist with the implementation of the task assigned to it by Article IV of Annex 1-B of the GFAP, which envisaged negotiations on sub-regional arms control between Croatia, Serbia and Montenegro, the Federation of Bosnia and Herzegovina, and Republika Srpska (the Parties changed in 2006 following the establishment of the AFBiH and the secession of Montenegro from Serbia, in January and May, respectively).¹² The OSCE's relationship with Bosnia and Herzegovina is quite particular, as responsibilities are split between the Mission in Bosnia and Herzegovina and the Personal Representative to the OSCE Chairman-in-Office for Article IV.

In 2008, the Arms Control Section supported Article IV activities under the supervision of the Personal Representative in Vienna. It also worked under the Director of the Department of Security Co-operation in providing direct assistance on improving the capacity and capabilities of the AFBiH and the Ministry of Foreign Affairs.

The Section assisted Bosnia and Herzegovina's authorities in preparing the exchange of information under Article IV and also facilitated eight Article IV inspection missions that involved Bosnia and Herzegovina by directly supporting the OSCE international assistants with briefings on the technical aspects of Article IV and providing interpreting services during the inspections proceedings. The Section and Department interpreters also prepared four different language versions of a handbook for conducting Article IV inspection missions. These same interpreters were also responsible for translating official documents related to Article IV activities and interpreting for the Personal Representative and the parties' delegations during the official Article IV-related meetings.

The Section encouraged the Ministry of Defence and Armed Forces to make a decision on the permanent location of the Bosnia and Herzegovina (Arms Control) Verification Centre. This decision was not made in 2008, and the Verification Centre consequently remained disconnected from the OSCE Communication Network, also known as the Integrated Notification Appli-

¹² Article II of Annex 1-B concerning the implementation of CSBMs has been successfully implemented and hence terminated.

cation. This lack of integration prevented the Verification Centre from notifying the Parties to the Agreement through this designated network. Although this situation did not impair the Article IV activities in 2008, it did hamper the proper functioning of the local system that was put in place so that Bosnia and Herzegovina could gradually assume full responsibility for implementing Article IV without direct OSCE assistance (as is the case for the other Parties to the Agreement).

Bosnia and Herzegovina has now decided to take over the responsibility for the full implementation of its Article IV obligations from 1 January 2010.

Conclusion

In late 2008, the Bosnia and Herzegovina Ministry of Foreign Affairs established its Department for OSCE and Regional Initiatives. This and the indication by the Ministry of Defence that it would assume full responsibility for overseeing the armed forces' implementation of Article IV are clear signs that Bosnia and Herzegovina authorities are preparing to take over responsibilities that have been primarily supervised by the international community in Bosnia and Herzegovina up to now.

Our Mission welcomes these moves toward increased independence and will tailor its future assistance to the needs of the maturing state-level structures.

The OSCE in the New International Environment in Kosovo

Historical Background

The Organization for Security and Co-operation in Europe (OSCE) has been engaged in Kosovo since 1992. On 14 August 1992, the Committee of Senior Officials (CSO) decided to establish the OSCE Missions of Long Duration in Kosovo, Sandjak and Vojvodina. This was the first of the Organization's numerous field operations to be deployed. It was designed to promote dialogue between authorities and representatives of the populations and communities in the three regions, collect information on all aspects relevant to violations of human rights and fundamental freedoms, and promote solutions to relevant problems. In addition, the Missions were tasked with establishing contact points for solving problems that might be identified and assisting in providing information on relevant legislation on human rights, the protection of minorities, free media, and democratic elections.¹ They officially started their activities on 8 September 1992. The Missions had their headquarters in Belgrade and offices in Pristina (with permanent presences in Pejë/Peć and Prizren), in Novi Pazar (with a permanent presence in Priepolje), and in Subotica. The size of the operation was initially limited to twelve members. Although they were eventually authorized to have 40 members, in reality the number of staff never exceeded 20. On 28 June 1993, after the expiration of the Memorandum of Understanding, the Federal Republic of Yugoslavia (FRY), referring to its suspension from the Organization, refused the OSCE's request for a prolongation of the Missions' activities and they were thus withdrawn.²

Following the agreement reached by US envoy Richard Holbrooke with Yugoslav authorities providing for the safe return of refugees to Kosovo and the scaling down of Serbian forces in Kosovo, on 15 October 1998 the Permanent Council declared the preparedness of the OSCE to embark upon verification activities related to compliance of all parties in Kosovo with this agreement.³ The Kosovo Verification Mission (KVM) was established on 25

Note: The views presented by the author are his own and do not necessarily reflect the views of the organizations he has worked for.

- 1 Cf. CSCE, *Fifteenth Meeting of the Committee of Senior Officials*, Prague 1992, 15-CSO/Journal No. 2, 14 August 1992, Decision on Missions of Long Duration, in: Annex I, Decisions of the Committee of Senior Officials, p. 5.
- 2 The Missions were formally closed on 11 January 2001 when the Permanent Council adopted Decision No. 401 on establishment of an OSCE Mission to the Federal Republic of Yugoslavia.
- 3 Cf. Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 259*, PC.DEC/259, 15 October 1998.

October 1998 to verify compliance by all parties in Kosovo with UN Security Council Resolution 1199. Its mandate encompassed monitoring the maintenance of the ceasefire, border security and policing activity, the facilitation of refugee and IDP return, and the protection of human rights. The KVM was also tasked with liaising closely with FRY, Serbian, and, as appropriate, other authorities in Kosovo, political parties, and other organizations on the ground, with supervising elections to ensure that they are free and fair, and with reporting and making recommendations to the OSCE Permanent Council, the UN Security Council, and other organizations on areas covered by Resolution 1199.⁴ The KVM reached a strength of approximately 1,500 international staff out of a planned 2,000 by February 1999, but due to the deterioration of the security situation, it was unable to carry out the full scope of its tasks. Finally, on 20 March 1999, four days before the start of the NATO campaign, the OSCE Chairman-in-Office, Norwegian Foreign Minister Knut Vollebæk withdrew the Mission. The KVM was then temporarily based in Skopje and was responsible for administration and planning for the return of the OSCE to Kosovo.

The KVM was formally dissolved on 8 June 1999 when the Permanent Council established the Task Force for Kosovo with the mandate to prepare for the OSCE's re-deployment in Kosovo and to continue to assist the UN and other international organizations.⁵ The Task Force for Kosovo was dissolved on 1 July 1999 and replaced by the OSCE Mission in Kosovo.⁶

Mandate of the OSCE Mission in Kosovo

The OSCE Mission in Kosovo (OMiK), established on 1 July 1999, is effectively the fourth OSCE field presence in Kosovo. Permanent Council Decision 305 refers to UN Security Council Resolution 1244 (1999) and charges the Mission with activities related to institution- and democracy-building and human rights as a distinct component of the United Nations Interim Administration Mission in Kosovo (UNMIK).⁷ This constituted Pillar III of the four-pillar regime established by the resolution. According to its mandate, OMiK, in co-operation with other relevant organizations, concentrates its work in the areas of human resources capacity-building, including the operation of a police school, the training of judicial personnel and the training of civil ad-

4 Cf. Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 263*, PC.DEC/263, 25 October 1998 in accordance with the mandate contained in the agreement signed by the Chairman-in-Office (CIO.GAL/65/98).

5 Cf. Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 296*, PC.DEC/296/Corrected reissue, 8 June 1999.

6 Cf. Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 305*, PC.DEC/305, 1 July 1999.

7 Cf. *ibid.*

ministrators; democratization and governance; organization and supervision of elections; and monitoring, protecting, and promoting human rights.⁸

The 1999 mandate was formulated in general terms, which has allowed the Mission to adjust its activities and priorities to the changing environment in Kosovo. Initially OMiK's work was geared towards helping to establish and develop all the key democratic institutions, notably the Central Election Commission, the Ombudsperson Institution, the Kosovo Judicial Institute, the Criminal Defence Resource Centre, Radio Television Kosovo, the Temporary Media Commissioner, the Kosovo Media Institute, the Kosovo Police Service School, and the Police Inspectorate. Undoubtedly, the best known OSCE achievement is the establishment of the Kosovo Police Service School (KPSS), which has recruited and trained 7,500 police officers since its inception. Other relatively well-known activities include the organization of numerous election cycles, improvements in the Assembly of Kosovo's fulfilment of its legislative and oversight functions, regulation of the media sector, and assistance to municipalities in the provision of services to communities, in particular minority communities. Nevertheless, a significant bulk of the Mission's work is low key and at the grass-roots level and, therefore, not well known by the general public. In addition, as Kosovo's institutions had matured, and in anticipation of the future status settlement, the Mission shifted its focus from institution and capacity building to institution monitoring in late 2005. Needless to say, that success in the field of monitoring is obviously more difficult to measure, and the Mission therefore suffers from insufficient public knowledge of its activities and the lack of an effective public relations strategy.

Declaration of Independence and its Consequences

In autumn 2007, in anticipation of developments to come in Kosovo and given the division among the OSCE participating States regarding a likely declaration of independence by Kosovo authorities, the OSCE was the first international actor to declare itself "status neutral". Despite this, in December 2007 the participating States still did not manage to reach consensus on the annual extension of OMiK's mandate. In particular, Serbia and the Russian Federation preferred to keep the option of non-extension out of fear that the Mission could become a tool for implementing the Comprehensive Status Proposal as drawn up by Martti Ahtisaari. Eventually on 21 December 2007, following lengthy negotiations, the decision was reached to extend the mandate of the Mission until 31 January 2008 and to extend it automatically on a month by month basis thereafter, unless a participating State were to object in writing to the OSCE Permanent Council Chair, whereupon the Mission would immediately start the procedure for closure. At the same time, how-

8 Cf. *ibid.*, points 1-4.

ever, negotiations would begin on the terms of a possible further engagement of the OSCE in Kosovo.⁹ At that time, a widely shared expectation was that once Kosovo declared its independence, the mandate extension would be blocked by Serbia, which would be supported by the Russian Federation. The general mood in the Organization was downbeat and the closure of the Mission seemed to be almost inevitable. Among other things, it affected the Mission's staffing situation, especially since some participating States started to encourage their secondees to seek other employment. Some international actors – in particular the designated International Civilian Representative (ICR) and the designated Head of the EU Rule of Law Mission – were prompted to start preparing contingency plans to take over elements of the OSCE mandate, its staff, premises, and equipment. The OSCE resolutely opposed such plans, arguing that even if a decision on the non-extension of OMiK's mandate were to be passed, the winding-down period would take at least three to four months, during which time negotiations on the future engagement of the OSCE in Kosovo would commence. The Chair had even started informal consultations on a new mandate of the Mission. It was clear, however, that the OSCE's being a consensus-based organization meant that such negotiations would be unlikely to succeed. In addition, some international actors, including the ICR designated, the USA, and several EU members were concerned about the extent to which the Organization would be able to assist in the implementation of the Comprehensive Status Proposal, given its declared status neutrality and the limitations Serbia, the Russian Federation, and other like-minded states would likely put on the scope of the mandate.

On 17 February 2008, Kosovo declared its independence, and this was soon recognized by a number of OSCE participating States.¹⁰ As expected, the Organization found itself stuck between two realities. Some participating States recognized Kosovo as an independent state and were in favour of the Mission continuing to carry out monitoring and reporting activities, in close co-ordination and co-operation with the International Civilian Office (ICO) and the EU Rule of Law Mission (EULEX), as suggested in the Comprehensive Status Proposal, as well as continuing and even enhancing its provision of assistance to Kosovo institutions. Others considered Kosovo still to be part of Serbia and insisted that there was no way that the OSCE in Kosovo could undertake activities in co-operation with the authorities that legitimized the independence of the province, but could only co-operate with the legal international presence in Kosovo, UNMIK. In their opinion, the Mission should

9 Cf. Organization for Security and Co-operation in Europe, *Permanent Council Decision No. 835*, PC.DEC/835, 21 December 2007.

10 As of 15 November 2009, Kosovo has been recognized by 35 OSCE participating States: Albania, Austria, Belgium, Bulgaria, Canada, Croatia, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, the former Yugoslav Republic of Macedonia, Malta, Monaco, Montenegro, the Netherlands, Norway, Poland, Portugal, San Marino, Slovenia, Sweden, Switzerland, Turkey, the UK, and the US.

focus on monitoring and reporting on the human rights situation, paying particular attention to the minority communities, the process governing the return of Serbs and other non-Albanians, and the protection of the Serbian religious and cultural heritage. This opened a number of operational questions for the OSCE Mission. At the same time, it forced the Organization to reconsider the future priorities of the Mission's programme, to find *modi operandi* for its co-operation with other international actors, and to find a balance between monitoring and assistance activities. Status neutrality creates unique challenges and places unique demands on the Organization if it is to be effective while accommodating the expectations of all the participating States.

However, despite the difficulties associated with this situation, OMiK's mandate was not terminated. On 19 February 2008, the Minister of Foreign Affairs of Serbia, Vuk Jeremić, addressed a special session of the Permanent Council.¹¹ Although he did not directly refer to the OSCE presence in Kosovo in his presentation, in the press conference that followed, he stressed that although "the Mission [in Kosovo] could have achieved more, Serbia wants it to stay, despite facing opposition of those, led by the US, who would like to close it". In the discussion that followed his speech, none of the delegations hinted at any intention to activate the mechanism for the non-extension of OMiK's mandate. In the months to follow, it became clear that Serbia would not seek the termination of the mandate as long as the Mission operated according to a status-neutral approach under UN Security Council Resolution 1244 and did not engage in activities that might be perceived as legitimizing the declaration of independence by Kosovo authorities.¹²

By summer 2008, it was evident that despite their differing views, the OSCE participating States had recognized that the Organization's job in Kosovo was not yet complete and that the OSCE Mission would continue the implementation of its mandate based on Resolution 1244 as a component of UNMIK in a status-neutral way. For the moment, the monthly extension of the mandate does not constitute a burden for the Mission's operations, and at this stage there are no indications that any participating State is planning to activate the mechanism for non-extension.

International Environment

At the same time, it was obvious that, following the declaration of independence, the presence of the international community would have to change. However, the process of reconfiguration, whose guiding principles were

11 Cf. *Address to the Permanent Council of the Organization for Security and Co-operation in Europe by H.E. Mr. Vuk Jeremić, Minister of Foreign Affairs of the Republic of Serbia*, Vienna, PC.DEL/133/08, 19 February 2008.

12 As formulated in, for instance, the "Non-paper on the role and the activities of the OSCE in Kosovo/Serbia" presented by the Head of the Permanent Mission of Serbia to the OSCE, Ambassador Miroslava Beham, on 14 March 2008.

elaborated in the Comprehensive Status Proposal, was hampered by the UN Security Council's failure to endorse this document as well as by the opposition of the Serb community. On 12 June 2008, the UN Secretary-General laid out his plans for the reconfiguration of UNMIK to reflect the new realities on the ground. The process of winding down UNMIK started in summer 2008, and the plan was to decrease the number of staff from 5,000 to approximately 500 by summer 2009. Besides the transfer of police and judicial personnel to EULEX, this winding down also included the discontinuation of most operations in the field of the UNMIK Department of Civil Administration (DCA). UNMIK maintained only limited "antenna" presences in northern Mitrovicë/Mitrovica, Pejë/Peć, Gračanica/Graçanicë, Štrpce/Shtërpçë and Gjilan/Gnjilane. By spring 2009, Kosovo Albanians had become quite outspoken in criticizing UNMIK as belonging to the past, arguing that it should be terminated, despite the fact that the UN presence is related to UN Security Council Resolution 1244, which cannot be changed without an agreement between the permanent members of the UN Security Council. Given Russia's stance, this seems highly unlikely in the near future.

After the declaration of independence, the ICO and the International Steering Group (ISG) were established to oversee the implementation of the Comprehensive Status Proposal. At that time, given the uncertainties regarding the future mandate of the OSCE Mission and its role in the implementation of the Comprehensive Status Proposal, the ICO decided to deploy a limited field presence. The ICO was boycotted by Belgrade and the Kosovo Serb community from the start, on the basis that it was an operation with no legal basis. Under those circumstances, the ICR never assumed the role envisaged by the Comprehensive Status Proposal: i.e. supervising the implementation of the settlement and acting as the final authority in Kosovo, including interpretation of the settlement, taking corrective measures, sanctioning officials or removing them from office, and, last but not least, coordinating the activities of other international actors in Kosovo.¹³

Although the ICO was able to function in the face of difficulties in its relations with Belgrade and the Kosovo Serb community, it was far more difficult for EULEX to do so. Finally, following consultations with Serbian authorities, on 24 November 2008 the UN Secretary-General presented his report to the Security Council containing the results and conclusions of this process.¹⁴ The process was based on the "six-point document", which outlined measures to be taken to ensure stability and continuity in the areas of police, customs, justice, transportation and infrastructure, boundaries, and

13 Cf. United Nations Security Council, *Letter Dated 26 March 1997 from the Secretary-General addressed to the President of the Security Council, Addendum, Comprehensive Proposal for the Kosovo Status Settlement*, S/2007/168/Add.1, Article 12 and Annex IX, Articles 1-2.

14 Cf. United Nations Security Council, *Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo*, S/2008/692, 24 November 2008, Section XI, Dialogue with Belgrade (paras 26-29).

Serbian patrimony. While Belgrade accepted the results of the discussions and the arrangements set out in the report, Pristina strongly objected to its conclusions. The UN Secretary-General underlined that EULEX would fully respect Security Council Resolution 1244 and operate under the overall authority and within the status-neutral framework of the United Nations. EULEX would submit reports to the United Nations on a regular basis. On 26 November 2008, the UN Security Council endorsed the report by issuing a presidential statement. This opened the way for the deployment of EULEX, which formally started on 9 December 2008. EULEX was pronounced fully deployed and operational in early April 2009 – the process having been boosted by the transfer of many police officers and judicial personnel from UNMIK to EULEX. However, the discussion on the implementation of the “practical issues” and the six-point plan has not started due to the substantially diverging views of Belgrade and Pristina regarding their modalities and the role of international facilitators.

The report and its endorsement by the UN Security Council resulted in the further weakening of the ICO as the only international actor that does not officially support the “status-neutral” model.

On 11 June 2009, the NATO ministers of defence reaffirmed that KFOR will remain responsible for ensuring a safe and secure environment in Kosovo under Security Council Resolution 1244 (1999) as long as necessary and until the UN Security Council decides otherwise. At the same time, they recommended that the 13,800 KFOR troops be gradually reduced to 10,000 by January 2010, with an eventual plan to further reduce their number to 2,500 over the next twelve to 24 months. Furthermore, on 3 August 2009, the NATO Secretary General, Anders Fogh Rasmussen, stated that he would like to see KFOR reduced to a very small reaction force, or even completely removed from Kosovo, by the end of his term in 2013.

The Mission's Activities

In his report of 12 June 2008, the UN Secretary-General asserted that he expected “the OSCE mission in Kosovo to continue its work as part of the re-configured UNMIK. The presence of the OSCE mission throughout Kosovo will be crucial for the promotion of democratic values at the grass-roots level and the protection of the legitimate interests of all communities in Kosovo.”¹⁵ It was understood that OMiK would remain a distinct component within the overall framework of UNMIK and that its reconfiguration would, therefore, not directly affect the Mission. The Secretary-General’s report of 24 November 2008 made an explicit reference to the enhanced role of the OSCE as a result of UNMIK’s downsizing: “The Organization for Security and Coop-

15 United Nations Security Council, *Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo*, S/2008/354, 12 June 2008, para. 13.

eration in Europe (OSCE) will remain a central element of a reconfigured UNMIK through the OSCE mission in Kosovo. Through its field presence, OSCE will continue to play a crucial role in building and monitoring Kosovo institutions and supporting Kosovo minority communities.”¹⁶

Despite the uncertainties regarding OMiK’s future that were evident at the beginning of 2008, the OSCE remains a stabilization factor in Kosovo, ensuring the continuity of the international presence. Although UNMIK’s reconfiguration does not directly affect the Mission, the latter’s role is changing. For instance, given that UNMIK has ceased to carry out most of its operations in the field, the OSCE Mission is currently the only civilian international player with a comprehensive field presence throughout Kosovo. OSCE personnel operating through a network of five Regional Centres (Prishtinë/Priština, Mitrovicë/Mitrovica, Gjilan/Gnjilane, Pejë/Peć, and Prizren) are present in all 33 municipalities, so the OSCE is often called the “eyes and ears” of the international community in Kosovo. In addition, the Mission uses its field presence for mediation and problem-solving at the local level, the role played earlier by the UN. However, in some fields (e.g. with regard to the special protective zones) Belgrade has already opposed an increased role for the OSCE at the expense of UNMIK. In general, the Mission’s role could be described as actively monitoring the work of the executive, legislative, and judicial branches at the municipal and central levels of government, and supporting the development of electoral and political systems, the Assembly of Kosovo, municipal administrations, the judicial system, public and private media, civil sector activities, as well as the Kosovo Police Service and other public safety institutions.

Relationships with local authorities and representatives of various communities, above all the Kosovo Serbs, remain key to the Mission’s success. So far, the Mission has benefited from the excellent relationships it has maintained with all communities, as well as the experience borne from ten years of practical work. The crucial time came immediately after the declaration of independence. Initially both Kosovo Albanians and Kosovo Serbs were reluctant to pursue a relationship with the OSCE, although for different reasons. Kosovo Albanians were not pleased with the Mission’s “status-neutral approach”, which was perceived as “status-negative”, in particular since the OSCE clearly stated its reluctance to get involved in the implementation of the Comprehensive Status Proposal. However, in the meantime, OSCE status neutrality has been accepted by Kosovo Albanians who have started to better understand the added value of the continued engagement of the Organization in Kosovo. The Mission continues to co-operate with the Kosovo authorities without, however, entering into activities which might be perceived as legitimizing the declaration of independence by the Kosovo Assembly. The relationship with Kosovo Serbs immediately after 17 February 2008 was characterized by mistrust and confusion as to the future role of the

16 *Report of the Secretary-General*, cited above (Note 14), para. 51.

OSCE Mission in Kosovo. Local Serbs, especially those in the north, were clearly waiting for instructions from Belgrade. Unfortunately, conflicting signals were apparently given by the Ministry of Foreign Affairs and the Co-ordination Center for Kosovo and Metohija. Finally, co-operation was re-established in early March 2008. This is of particular importance given the complex relationship the Kosovo Serbs have with both EULEX and the ICO.

OSCE Relations with Other Actors

The OSCE Mission in Kosovo was established in a unique way and remains the only OSCE field operation constituting part of a bigger structure. Nevertheless, although the Special Representative of the UN Secretary-General (SRSG), to which OMiK reports, does possess a kind of ultimate authority, the Mission nonetheless enjoys considerably freedom and independence in its activities. While, according to the 12 June 1999 UN Secretary-General Report, confirmed by OSCE Permanent Council Decision No. 305, the OSCE should assist UNMIK as Pillar III under the leadership of the UN, it is necessary to pay attention to the practical mode of co-operation developed over the last ten years, which is based on mutual assistance and a process of consultations. The exchange of letters between the UN Under-Secretary-General for Peacekeeping Operations, Ambassador Bernard Miyet, and Ambassador Kim Traavik, Representative of the Norwegian OSCE Chairman-in-Office, dated 16 and 19 July 1999, represented an agreement regarding the allocation of tasks to be undertaken by the OSCE under UNMIK. It confirmed among other things that the institution-building component of UNMIK would be headed by a Deputy Special Representative of the UN Secretary-General, who would also be the Head of OMiK. In his or her capacity as the Deputy Special Representative, he or she would also report on activities of the institution-building component to the SRSG. The SRSG would also retain overall and ultimate authority for the interpretation and implementation of the provisions of UN Security Council Resolution 1244 in relation to its civil aspects. The SRSG would have responsibility for ensuring that all UNMIK activities, including the OSCE-led institution building component, were carried out in an integrated, cohesive, and effective manner.¹⁷ There were occasions when the OSCE was not properly consulted by UNMIK. That was the case, for instance, with regard to the announcement of elections in autumn 2007 – a decision that the OSCE had to implement. Nevertheless, in general the relationship has developed in a constructive way and even improved after the appointment of the current SRSG – Ambassador Lamberto Zannier, who, as the former Director of the OSCE Conflict Prevention Centre, has a very good

17 Cf. Letter of Ambassador Bernard Miyet, UN Under-Secretary-General for Peace Keeping Operations, to Ambassador Kim Traavik, Representative of the OSCE Chairman-in-Office, 16 July 1999; response of Ambassador Traavik, 19 July 1999, paras 3 and 4.

understanding of the Organization's involvement in Kosovo. The OSCE also continues to operate in the UNMIK framework with regard to such issues as privileges and immunities, personnel, security contingency, etc.

The OSCE has also developed a good relationship with KFOR/NATO at the central, regional, and municipal levels. At the moment, KFOR and the OSCE are the only two organizations with significant field presences. The co-operation between OSCE Municipal Teams and KFOR Liaison Teams has been crucial in this regard. However, the mutual relationship has been affected by NATO's decision to train members of the Kosovo Security Force (KSF) at the Kosovo Police School, which was founded by the OSCE. Although the Academy has evolved into the Kosovo Center for Public Safety Education and Development (KCPSED) and has already been transferred to local-authority control, some OSCE participating States have perceived it as a violation of OSCE status neutrality.

The relationship with the EU in its many guises is more complex, but functions nonetheless with a high degree of co-operation and information sharing on the ground. Both organizations spent significant time in the planning phase on ensuring that OMIK and the EU Rule of Law Mission would achieve complementarity instead of duplicating efforts. After the unilateral declaration of independence and Belgrade's initial opposition towards the deployment of EULEX, the OSCE Mission could not establish an official relationship. The situation has changed since the UN Secretary-General's report of 24 November 2008. It established that EULEX would fully respect the UN Security Council Resolution 1244 (1999) and operate under the overall authority and within the status-neutral framework of the United Nations. This has opened the way for formal co-operation between OMIK and EULEX. In general, the relationship has developed well, both at the executive level and in the field. At this stage, it is uncertain whether the relationship will need to be formalised by a memorandum of understanding or similar document.

OMiK has also established a good relationship with the European Commission Delegation in Pristina, providing input, for instance, to the Commission's annual progress reports.

The most complex relationship proved to be that between the Mission and the ICO. The need for the Mission's political stance to avoid contradicting the positions of any OSCE participating States extends to its relations with other international actors. The OSCE is therefore not able to enter into any formal agreement with the ICO.

The Way Forward

At the moment, OMIK's activities largely reflect the continuity of the OSCE's involvement in Kosovo. In the last couples of years, the Mission has

continued to improve its efficiency, adapt its structure and management, and take a critical look at its staffing levels (“post table”). The budget has decreased from 33,602,600 euros in 2005 to 26,910,000 euros in 2009 and personnel numbers from 1,122 in 2005 to 857 staff in 2009. It was believed that the transitional period of status discussions was not the appropriate time to substantially change the Mission’s structure. However, in light of the winding down of UNMIK and the full deployment of EULEX and its 3,000 staff members (1,900 international supported by 1,100 local staff), the process of reconfiguration is now being followed closely. The changing international environment in Kosovo provides a timely opportunity to review the Mission’s current activities. Added to this is the increased pressure from some participating States to significantly restructure and/or downsize the OSCE Mission in Kosovo. One should also take into consideration the ongoing staffing problems, due, above all, to the limited efficiency of the OSCE secondment system. The process will focus on assessing the OSCE’s role and achievements in the last ten years. It should inevitably lead to the revision and reprioritization of programmatic activities, in particular in relation to the mandates of other actors in Kosovo.

It is clear that the field presence and human-rights monitoring will remain key elements of the Mission’s overall mandate. What is needed is a clear definition of benchmarks and timelines and an exit strategy for OMiK’s engagement with institutions it has helped to establish. Dialogue will continue with EULEX on OMiK’s involvement in court monitoring and capacity-building in the area of public safety. OMiK will have to assess its involvement in the provision of training and support to the Central Election Commission (CEC) and its secretariat. In addition, there is an obvious need for streamlining and increased cost effectiveness, and adjusting the Mission’s structure to revised tasks and responsibilities in order to better meet new objectives. There is also a clear need to enhance OMiK’s public profile so that other international actors and the public at large become better acquainted with the Mission’s activities.

How Can Confidence and Security Be Restored in Moldova?

The OSCE Mission to Moldova was established in February 1993, a few months after the end of the conflict fought between forces on opposing sides of the Dniestr river. According to its mandate, its aim was to “facilitate the establishment of a comprehensive political framework for dialogue and negotiations and assist the parties to the conflict in pursuing negotiations on a lasting political settlement of the conflict, consolidating the independence and sovereignty of the Republic of Moldova along with an understanding about a special status for the Trans-Dniester region”.¹

A Rough Balance of Power

No political settlement of the conflict can be concluded while there is still a risk of a return to violence. Both sides have enough military power to repeat the tragedy of 1992 – or to do something even worse. The recent examples of Georgia and its separatist regions show that this risk exists. Can it be avoided in the case of Moldova?

In light of its size and situation, the Republic of Moldova decided to adopt a policy of neutrality.² Its military power consists of nearly 5,000 troops in the National Army, whose conventional equipment dates from the Soviet era. Most of its infantry is motorized or mechanized with armoured personnel carriers (BTR class) or air-transportable infantry fighting vehicles (BMD class). There are no tanks in Moldova, and the last six combat aircraft left in the country are no longer operational. Moldova’s relatively numerous long range artillery (guns and multiple rocket launchers) is becoming outdated and being decommissioned, but there are plenty of field artillery, anti-tank, and anti-aircraft weapons. Still dependant on a conscription system, Moldova has undertaken a modernization of its forces, but its lack of financial resources will not allow any improvement in equipment in the near future. Nevertheless, with strong firepower and significant anti-tank capacity, it is capable of limited action against its opponent and has the capacity to oppose any offensive coming from the left bank. In case of conflict, the add-

Note: The views presented here are the author’s own and do not necessarily reflect the positions of the OSCE or any of its structures.

1 CSO Vienna Group, *CSCE Mission to the Republic of Moldova*, Journal No. 7, 11 March 1993, Annex 1.

2 Cf. *Constitution of the Republic of Moldova*, Article 11: The Republic of Moldova as a Neutral State.

itional force of some 10,000 interior troops, border guards, and police would secure the mobilization of a maximum of 100,000 troops.

The Transdniestrian side, with a total of 4,000 to 4,500 regular troops, has the advantage of 18 tanks, a good number of multiple rocket launchers, and several assault helicopters. Also based on conscription, the Transdniestrian defence sector can count on an additional force of Cossack and volunteer corps, and with a more effective mobilization system, some estimates say that it could mobilize up to 120,000 troops. Considering today's economic and social situation (with most of the economically active population of the region working abroad), a more realistic figure is around 80,000. The Transdniestrian forces could launch a very limited offensive on the right bank. Even if Transdniestria's capacities to buy modern weapons are as limited as those of its Moldovan counterpart, Transdniestria has the industrial capacity to manufacture weapons, or rather to assemble or transform existing weapons. Although Transdniestria has constantly denied it, several witnesses agree that it has manufactured small arms, mortars, and multiple rocket launchers. In any case, Transdniestria has the ability to conceal any such activities, as it has no international obligations.

An Outdated Peacekeeping System

The first attempt to reduce the danger after the Russian forces present in Transdniestria (General Alexander Lebed's 14th Army) obliged the parties to put an end to the conflict was the signature of an agreement in July 1992 that created a security zone to separate the belligerents and established a regular body, the Joint Control Commission (JCC), co-chaired by Russia and the conflict parties, and attended by Ukraine and the OSCE, that was capable of commanding tripartite peacekeeping forces (PKF) deployed in the security zone. The PKF mans control posts on the main crossing points of the river Dniestr and controls an observer unit of ten Russian, ten Moldovan, ten Transdniestrian, and ten Ukrainian officers, which patrols the entire security zone. A total of approximately 400 men per contingent are deployed in the security zone.

But the peacekeeping system has recently revealed its limits. On several occasions, tensions have risen at crossing points, mainly triggered by the security forces (militia, police, customs, border guards) deployed in spite of the agreement of free circulation included in the July 1992 agreement. Some of those incidents have paralysed the work of the JCC for several months, creating the risk of a rejection of the agreement by one of the parties and of a new conflict. With the exception of the withdrawal of heavy equipment from the security zone (an OSCE initiative implemented in the summer of 2003) and the downsizing of the number of peacekeeping battalions, the JCC has not been able to achieve any progress in the situation. All decisions are re-

quired to be made by consensus, and problems are often referred to higher authorities that never answer the commission's requests. The construction of new barriers between the sides has progressively diminished the importance of the PKF, and the free circulation of persons across the Dniestr has continuously declined; one of the bridges rebuilt after the conflict has not been yet reopened to road traffic. The JCC has not been able to eject fully the non-peacekeeping units that still remain within the security zone.

The Russian Counterweight

If the military power of both sides is roughly balanced, this is without considering the relative importance of the Russian troops in Moldova, the Operative Group of Russian Forces (OGRF), which has a strength of approximately 1,200 troops. These troops alone could not prevent a new conflict, but they could be quickly reinforced from Russia. Russia keeps these forces in Transdnistria in support of the tripartite peacekeeping operation (about 600 troops) under the 1992 Agreement on Principles of a Peaceful Settlement of the Armed Conflict in the Transdnistrian Region, and also to guard a large ammunition depot located in Colbasna in the north-eastern part of the Transdnistrian region, which, at the end of the Cold War, contained more than 40,000 metric tonnes of ammunition left by the former 14th Army and withdrawn from the East European countries.

Following the OSCE Istanbul Summit in 1999, where Russia made a commitment to withdraw its forces from Moldova, an effort was made to assist Russia in performing this withdrawal. The OSCE raised voluntary funds totalling some 22,200,000 euros among 17 participating States, which helped to destroy or remove most of the equipment. No less than 108 tanks, 48 artillery pieces, and 91 armoured combat vehicles were destroyed between 2000 and 2004, along with other equipment that was not limited by the CFE Treaty. Nearly half of the ammunition was also removed in the same period. Soon, the Transdnistrian authorities claimed that the remaining assets of the Russian forces were their property and allowed no more withdrawals. The last convoy left Moldova on 24 March 2004. Approximately 20,000 metric tonnes of ammunition remain in the storage depot at Colbasna awaiting removal to Russia or destruction in Transdnistria. The Russian Ministry of Defence repeatedly declared that six months would suffice to remove the quantities that remained, and that the removal could start within two to three weeks. Since then, access to the storage area by OSCE mission members has been repeatedly blocked by Transdnistrian authorities. Facing an inability to do more, some donors became impatient and withdrew their participation in the voluntary fund. Apart from a few armoured personnel carriers in support of the peacekeeping force and deployed in the control posts, there is no more significant Russian equipment left in the region.

The international inspections to be conducted in Moldova under the Vienna Document and the CFE Treaty have all been stopped at the internal demarcation line, the Transnistrian authorities denying access to the Moldovan escort, and the inspection team refusing to go on without it. Transnistria is therefore one of the last regions in the OSCE area in which there is no transparency. This includes the Russian forces, which cannot be inspected for the same reasons. This situation serves Russia's purpose of staying in the region as long as the conflict is not solved, pretending that its presence is a guarantee against any temptation from the Moldovan side to achieve full reunification by force. Keeping Russian forces in Moldova is a factor that blocks a political solution: Not only does it not facilitate negotiations, but withdrawing them too early could be a risk to security, which would equally prevent any progress.

Additional Tasks for the OSCE

The OSCE has to bypass this dilemma and move forward to achieve a settlement:

- by continuing to push both sides, together with the mediators and the observers, to resume the talks on the political settlement as soon as possible;
- by supporting Moldovan President Vladimir Voronin's recent (October 2007) proposal offering a number of confidence-building measures (CBMs). Following this initiative and the meeting of the two leaders in Bender in April 2008 (their first since 2001), eight groups of experts have been set up and five have started to work. These groups are working on the settlement by common consent of the problems in the fields of economy, agriculture, and ecology; railway transport; humanitarian assistance; infrastructure; and healthcare. Another working group has since been established, dealing with law enforcement bodies, but the education, and disarmament and demilitarization working groups have still to start their work;
- by supporting discussions on confidence- and security-building measures (CSBMs) and on the reduction of armaments. This technical, expert-level approach is supposed to open discussions on issues acceptable to both parties, clarifying and paving the way to political decisions.

Concerning the security sector, the idea of the demilitarization of Moldova and Transnistria is not new. At least once during their terms in office, both current leaders have proposed to demilitarize. The signing of the Odessa

Agreement,³ which already featured the 3+2 format (three mediators, Russia, Ukraine, and the OSCE, and the two conflict parties), introduced a number of measures that aimed to reduce the numbers of peacekeeping troops, and to facilitate communications and traffic across the Dniestr river. This document also enhanced bilateral contacts and consultations: Under pressure from their leaders, the heads of defence agreed to sign a protocol providing the following measures:

- direct communication lines between the defence ministries, general staffs, and operations duty officers,
- formation of a joint commission on co-operation and a common defence area,
- a plan on joint activities to enhance confidence,
- the mutual exchange of information on exercises, and invitations to attend those exercises,
- a mechanism of co-operation with the Joint Control Commission and Joint Military Command of the peacekeeping forces to solve the problems in the security zone, and
- regular meetings between the governments to raise questions connected with those common issues.⁴

A few weeks later, on the invitation of the OSCE Mission, high level representatives of both sides and of the mediators met in the Marshall Center in Garmisch-Partenkirchen and made a series of proposals related to the enlargement of the peacekeeping operation, transparency, and CBMs. They also questioned the necessity of an army on each side, and proposed the establishment of a Joint Information Centre in Bender.

Other proposals were made on this occasion, which contained interesting ideas such as:

- involving more parties in seeking a resolution of the conflict, such as the press, NGOs, etc.,
- reducing the size of armed forces and amounts of weaponry,
- amending the constitutions, in particular the provisions on national and internal security,
- mutually exchanging data on armed forces,
- verifying the implementation of agreements already signed, and
- extending transparency and CBMs to the entire territory.

3 *Agreement on Confidence Measures and Development of Contacts between Republic of Moldova and Transnistria (Odessa Agreement)*, Odessa, 20 March 1998.

4 Cf. *Protocol Decision between the Defence Ministries of the Republic of Moldova and Transnistria on Confidence Building Measures*, 8 August 2001.

This period of rich exchange and dialogue between the sides did not last long; the so-called economic blockade of Transdniestria, when the Moldovan government decided to oblige the Transdnistrians to use Moldovan customs seals, suspended all implementation of the documents already agreed.

When, after the removal of the last convoy of Russian ammunition from Transdniestria, the Transdnistrian side blocked the railway to Colbasna and refused access to Mission experts, it became obvious that there was a need to resume discussions, and, prior to that, to find a way to make this resumption possible.

The OSCE Proposes a Set of CSBM Documents: “The Package”

To this end, during 2004 and 2005, the OSCE Mission elaborated a package of documents gathered under the title “Arms Control – Confidence and Security Building Measures in Moldova”.⁵

It is based on the OSCE’s previous experience in these areas, which includes the CFE Treaty, the Vienna Document 99, and the achievements of the Dayton Framework Agreement in the former Yugoslavia,⁶ such as the Florence Agreement establishing arms control in the area and the Vienna Agreement building confidence and security in Bosnia Herzegovina. The package takes into consideration both the current Moldovan situation and previous achievements. After a thorough analysis of all possible measures, including the most recent ones undertaken by the OSCE (small arms and light weapons, ammunition destruction and stockpile management), the choice was made to offer a mixture of the most attractive and the most efficient measures. A first draft of proposals was handed over to the leaders of both parties by the then OSCE Chairman-in-Office, Solomon Passy, in 2004.

After some constructive remarks were made in the Permanent Council, the draft was re-examined by the Mission experts, together with experts from the guarantor states (the Russian Federation and Ukraine), and the final version of the package was presented to the parties on 12 July 2005, together with a letter from the OSCE Chairman-in-Office, Dr Dimitrij Rupel.

The package contains all the instruments necessary for fully balanced, simultaneous, and progressive disarmament together with a menu of confidence- and security-building measures.

The first part of the package (Part A) contains the most restrictive documents, centred upon a draft agreement on the reduction of forces, armaments, and equipment generally referred to as “the Agreement”. The Agreement proposes a reduction rate of 20 per cent per year for heavy military

5 Organization for Security and Co-operation in Europe, *Arms Control – Confidence and Security Building Measures in Moldova*, SEC.GAL/178/05, 28 July 2005.

6 *General Framework Agreement for Peace in Bosnia and Herzegovina*, initialled in Dayton, Ohio, U.S.A., on 21 November 1995, and later signed in Paris, France, on 14 December 1995, Annex I-B, Articles II-IV and V.

equipment and ten per cent per year for personnel beginning one year after signature. It also includes a proposal that the parties review this after three years to formulate an “end-state” for military reduction. In the best case scenario, this could lead to total demilitarization. It was proposed that a Joint Security Commission (A-5) should examine the package as a set of working documents for further elaboration by the parties and organize their implementation. The rest of the documents propose a verification regime (A-2), a list of existing types of equipment (A1-1), reduction of armaments (A-3), transformation of combat capable helicopters (A-4), and a protocol on visits to weapons manufacturing facilities (A-6). A comprehensive exchange of information on equipping holdings, subordination, and manpower is also proposed. The Agreement concerns far more than the five categories of armament considered in the CFE Treaty and the Florence Agreement, and encompasses not only military forces but also all organizations and units with a military capacity. If one of these documents is accepted, it should lead automatically to the negotiation of others, opening the way to substantial or full disarmament.

The second part of the package, (Part B) contains a draft document on confidence and security building, known as “the Document”, which includes seven measures:

- proposals for invitations (B-1),
- military contacts and co-operation (B-2),
- joint peace-support-operation training (B-3),
- joint training on inspections (B-4),
- small arms and light weapons (B-5),
- ammunition destruction and stockpile management (B-6), and
- disaster relief (B7).

The Document follows the gentlest possible approach to confidence- and security-building, with no measure depending on any other. In the form in which it is finally signed, it may include only some of the measures or additional ones chosen by the parties.

The Package and the Reality

The core of the package being the Agreement, the first step towards real negotiations is the establishment of a joint commission. This role could be filled by the expert group on defence and demilitarization created as a result of the Voronin proposals but not yet activated. The next step would be to exchange information, the verification of which could initially be performed by the mediators, as has been done, for instance, in Bosnia under the Vienna Agreement (better known as Article II).

In our view, the CSBM discussions should start by considering measures for disaster relief. This issue is a very sensitive one, and recent disasters have shown that better co-ordination and sharing of alert and rescue assets are an immediate priority.

During the political negotiations in late 2005 and early 2006, two measures were already considered. Both are related to transparency:

- First, an exchange of information on the armed forces was proposed on the model of the protocol on exchange of information and notifications (A-1). This is the main item that was discussed at the negotiations; it precedes and determines the rest; CSBMs cannot achieve anything without initial transparency.
- Second, responding to accusations of arms production and trafficking, the Transnistrian leader proposed to open his defence industry to international observers. The OSCE then proposed to elaborate a document that would govern visits to various facilities identified as possibly producing weapons. This document would be based on the model of the protocol on weapons manufacturing facilities (A-6).

The two proposals are victims of the suspension of political negotiations, but they are still on the table and ready for discussion.

After an official presentation was made to the press and to the OSCE participating States in Vienna in October 2005, several criticisms were raised, mainly by Moldova:

- The main obstacle to discussion is Transnistria's reluctance to embrace transparency and accept parity with the rest of Moldova, which has international transparency obligations.
- The Russian presence in Transnistria and its ambiguous position as both a mediator and an interested party cast doubts on Moscow's ability to support any progress. (Russia has not agreed to ratify the agreement it signed with Moldova in Moscow in October 1994, which set out a schedule for the withdrawal of its troops, the deadlines for which have been postponed indefinitely since the Istanbul summit).
- What could oblige the parties to implement agreements in the absence of a central political agreement, as in the Dayton system, that would place them under international pressure?
- Because of the rule of consensus, the Agreement, like the peacekeeping system, is dominated by Russia, and would therefore not be effective.
- The signature of any document with Transnistria puts it on an equal footing with Moldova and is a step towards recognition of its right to be independent.

Nonetheless, both parties have expressed their interest in the package, and the Moldovan Minister of Defence has already accepted the setting up of a work-

ing group of experts to discuss the issue with the OSCE Mission prior to negotiations. The Transdniestrian authorities have been invited to do the same. On several occasions, a group of experts nominated by the Transdniestrian leadership has failed to attend the presentation of the package by the Mission's experts, without any explanation.

It seems that the steps taken by President Voronin towards Russia, his CBM proposals, and the recent meeting of the three leaders, Dmitry Medvedev, Vladimir Voronin, and Igor Smirnov, in Moscow have opened a favourable window during which a fruitful dialogue on the security sector may be started. Russia's influence is essential if the Transdniestrian authorities are to be convinced to start negotiating, but the opportunities to move ideas forward have to be organized by the OSCE. The Mission has already enabled the exchange of ideas by holding seminars in Odessa on the issue of CSBMs (October 2007 and April 2008). Both sides expressed their continued interest in such meetings, and the experience will soon be repeated, this time with the expectation of achieving real commitments to institutionalize the dialogue and start the work.

Scepticism regarding the interrelatedness of the political negotiations and the CSBM discussions is misguided: If there is no progress in the political negotiations, lower-level confidence-building measures can help improve the climate in which political discussions are carried out.

A former Head of the OSCE Mission to Moldova noted that "CSBM work won't stop with a possible settlement. In fact, it's just the start."⁷ CSBM negotiations have a long future ahead of them. They also need support from all quarters. The involvement of the US and the EU as observers in the 5+2 format is a means of guaranteeing such support. There is a need for money and know-how, for the training of inspectors and peacekeepers, for building storage areas, reducing armaments, establishing specialized communication systems, retraining dismissed defence and security personnel, converting equipment, equipping, planning, and training for disaster relief operations, for finding new ways to promote confidence and security, all in all: for creating the conditions under which peaceful discussions can take place.

Everybody agrees that this conflict is neither ethnic nor religious. Nor is it about language, and it is hard to detect any difference between the sides when one crosses the Dniestr. That is why, in contrast to the conflicts in the Caucasus, this one has better prospects for resolution. Expectations on both sides are high, and there is room for compromise between maintaining the status of Moldova under international law within its 1991 frontiers, the will of the Transdniestrian people to keep their autonomy, and the concerns of Russia regarding its role in the region. The process of making that compromise a reality started several years ago, it can be resumed by taking tiny steps towards building confidence.

7 Louis O'Neill, former Head of Mission, in his closing remarks of the October 2007 seminar on CSBMs.

Nagorno-Karabakh: Ever Closer to a Settlement, Step-by-Step

Conflict settlement is about much more than the settlement itself. Not only must it satisfy all sides, being tempered by mutual compromises (each side feeling that the others have given something), but it must be regarded as broadly fair and just, functional and worth the effort required to make it work. In this respect, any constitutional settlement will depend on more than the personal relations and good will of the respective leaderships. Electorates matter, and the military can spoil things. Moreover, external forces – frequently a number of competing external forces – need to have reached their own separate accommodations. In any case, however successful the settlement proves, leaderships *will* inevitably change.

Conflict may provide opportunities, but it usually results in much heavier costs. Perceived past injustices may be remedied, historical scores settled, territory won, but lives are lost, and new resentments therefore generated. The wounds inflicted may last a lifetime, personal ambitions are frustrated by the requirement to perform front-line service, trading relations are fractured, and economies damaged – all of which leaves an unpalatable legacy for future generations, for whom any settlement is inscribed only in print and other inanimate forms.

Along with a great capacity for creativity and good, human beings have also been endowed with an almost insane desire for destruction. War appears to be as natural as any other form of conflict, and will never be abolished. The best that can be hoped for is that it is kept to a minimum.

History may one day conclude that the Armenians got their war. A century of anger, frustration, and bitterness found its pretext, in 1988, as the Soviet Union was embarking on its own implosion, with demands for the “liberation” of Nagorno-Karabakh from Azerbaijan – from the Turks.¹ That war was won, much territory seized, but Armenia and the Armenians have yet to enjoy or feel their independence: A state that has known only a condition of war is not a living, breathing state.²

The year 2009 marks the 15th anniversary of the ceasefire procured via the Bishkek Protocol.³ In that time the faces may have changed, but, on the

1 On 20 February 1988, a session of the 20th convocation of delegates of the Nagorno-Karabakh Autonomous Oblast adopted a resolution seeking the transfer of Karabakh from Soviet Azerbaijan to Armenia.

2 Since the cessation of hostilities, Karabakh armed forces have continued to control seven districts beyond the region's former Soviet boundaries: (clockwise) Agdam, Fizuli, Jebrail, Zangelan, Kubatli, Lachin, and Kelbajar.

3 The “Participants of the meeting held in May 4-5 in Bishkek [...] call upon the conflicting sides to come to common senses: cease to fire at the midnight of May 8 to 9 [1994]”, *The*

ground at least, little else has.⁴ However, progress has been and continues to be made. Both the current and previous Armenian and Azeri leaderships may have been unwilling to acknowledge it, even face-to-face, but the character and features of any settlement over Nagorno-Karabakh are beginning to emerge.⁵ That settlement will not come quickly. First, both sides will have to begin to reconcile themselves to the compromises required. Second, the people of both countries (including the population of Nagorno-Karabakh) will have to be prepared to accept those compromises. Third, third parties will also have to be ready. All of this will take some more years yet, but a start has been made.

The current Minsk Group co-chairs⁶ may be frustrated by the slow rate of progress, but the Group should be credited for the solid, sustained, and real achievements of recent years. Before the leaderships can begin to reconcile *themselves*, a degree of stability and consistency is required in what is “put on the table”. The concepts have been clarified, with details being exchanged since the presentation of the first three rejected proposals in 1997-98.⁷ The current framework, known as the Madrid Principles,⁸ is a continuation of the work arising from the “Prague Process”, which began with a meeting between the foreign ministers of Armenia and Azerbaijan in Prague in April 2004.⁹ The next stage is to begin to add flesh to those concepts and, over a

Bishkek Protocol, 5 May 1994, available online at: <http://www.c-r.org/our-work/accord/nagorny-karabakh/keytexts15.php>.

- 4 The President of Armenia is currently Serzh Sargsyan, who assumed office on 9 April 2008. He was preceded by Robert Kocharyan (1998-2008) and Levon Ter-Petrosyan (1991-1998). The President of Azerbaijan is currently Ilham Aliyev, who assumed office on 31 October 2003. He was preceded by his father Heydar Aliyev (1993-2003), Abulfaz Elchibey (1992-1993), and Ayaz Mutalibov (1991-1992).
- 5 Up to the end of 2009, Presidents Sargsyan and Aliyev had met on eight occasions: The first instance was on 6 June 2008 in St Petersburg on the sidelines of a CIS summit; the second occasion was on 2 November 2008 near Moscow, which led to the signing of the Moscow Declaration; the third was on 28 January 2009 in Zurich on the sidelines of the World Economic Forum, Davos; the fourth meeting took place on 7 May 2009 in Prague on the sidelines of the Prague EU “Eastern Partnership summit”; the fifth on 4 June 2009 in St Petersburg on the sidelines of the 13th St Petersburg International Economic Forum; the sixth on 17 and 18 July 2009 in Moscow; the seventh on 8 October 2009 in Chişinău on the sidelines of a CIS summit; and, most recently, the Presidents met again on 22 November 2009 at the French consulate in Munich.
- 6 Bernard Fassier (France), Yuri Merzlyakov (Russia), and Robert Bradtke (United States).
- 7 The Minsk Group “package deal” proposal of July 1997; the Minsk Group “step-by-step deal” proposal of December 1997; and the Minsk Group “common state deal” proposal of November 1998.
- 8 This is a framework agreement (“Fair and Balanced Basic Principles of the Peaceful Settlement of the Conflict”) that was presented to the foreign ministers of Armenia and Azerbaijan in Madrid on 29 November 2007. It comprises a “phased-package” approach: The elements of a settlement are agreed on simultaneously, but implemented successively, with one key aspect – the final status of Nagorno-Karabakh – being decided subsequently by referendum.
- 9 The “Basic Principles for the Peaceful Solution of the Nagorno-Karabakh Conflict” were outlined in a communiqué issued by the co-chairs on 3 July 2006: “The principles are based on the redeployment of Armenian troops from Azerbaijani territories around Nagorno-Karabakh, with special modalities for Kelbajar and Lachin districts (including a corridor between Armenia and Nagorno-Karabakh), demilitarization of those territories,

period of time, to transmit them to the Armenian and Azeri people. The co-chairs have been very successful in emphasizing that there is broad understanding between the sides on most issues, whilst acknowledging that there is a very small number of items over which further time and discussion will be required.¹⁰ For reconciliation to be able to begin, it is essential for civil society actors, who will gradually be brought into the peace process, to have something to share.

Peace will lead to the establishment of diplomatic relations between Armenia and Azerbaijan. The militaries will step to one side – to an extent – and borders will be reopened. Communications will be restored, from telecommunications to air links. Trade will be given the opportunity to flourish. Prior to that peace, the future may be foreshadowed by the opportunity for people from each side to meet and to visit each other's countries, as well as in the form of cultural exchange in the fields of art, music, and literature.

A globalized world will disdain and ultimately defeat any attempts at ethnic, linguistic, or religious apartheid. A settlement in Karabakh will allow Internally Displaced Persons (IDPs) and refugees to return, not only to places from which armed forces have recently departed, but also to other, more central (and central to the dispute) regions. Eventually, “displaced” Azeris will be entitled to return not only to the seven occupied districts surrounding Nagorno-Karabakh, but to Karabakh itself.¹¹ The more general peace that

and a referendum or population [sic] vote – at a date and in a manner to be decided through further negotiations – to determine the final legal status of Nagorno-Karabakh. Deployment of an international peacekeeping force and a joint commission for implementation of the agreement would be established, and international assistance would be made available for demining, reconstruction, and resettlement of internally displaced persons in the formerly occupied territories and the war-affected regions of Nagorno-Karabakh. Certain interim arrangements for Nagorno-Karabakh would allow for interaction with providers of international assistance. The sides would renounce the use or threat of use of force, and international and bilateral security guarantees and assurances would be put in place. Regarding the vote to determine the future status of Nagorno-Karabakh, the Co-Chairs stressed that suitable pre-conditions for such a vote would have to be achieved so that the vote would take place in a non-coercive environment in which well-informed citizens have had ample opportunity to consider their positions after a vigorous debate in the public arena.” The full text of the communiqué is available at: http://www.diplomatie.gouv.fr/fr/actions-france_830/crises-conflits_1050/haut-karabagh_13520/communique-du-groupe-minsk.-03.07.06_38824.html.

10 During an interview for Radio Liberty's Armenian Service, broadcast on 28 May 2009, former US co-chair Matthew Bryza spoke of disagreement on “a handful of remaining principles”. *Minsk Group Meeting With Azerbaijani President On Karabakh Conflict*, at: <http://www.asbarez.com/2009/05/29/minsk-group-meeting-with-azerbaijani-president-on-karabakh-conflict>. This would seem to accord with remarks made by Russian Foreign Minister Sergey Lavrov to the Russian daily *Rossiyskaya Gazeta* and printed on 6 October 2008, in which he stated that “there remain two or three unresolved issues which need to be agreed upon at the next meetings of the presidents of Armenia and Azerbaijan”. *OSCE Minsk Group Co-Chairs Hail Moscow Karabakh Talks*, at: <http://www.eurasianet.org/departments/insightb/articles/eav110708c.shtml>.

11 The UNHCR claims that as of 1 January 2006 there were 578,545 internally displaced persons (IDPs) living in Azerbaijan. See *2005 UNHCR Statistical Yearbook, Country Data Sheet – Azerbaijan*, 30 April 2007, at: <http://www.unhcr.org/464183605.html>. According to the 1989 Soviet census, 40,688 Azeris were living within the Nagorno-Karabakh Autonomous Oblast, this being approximately 25 per cent of the area's popula-

will emerge will enable Armenians to return to those parts of Martakert and Martuni districts currently behind Azeri lines,¹² to Baku and other towns and cities in wider Azerbaijan,¹³ and for Azeris to return to Armenia (including Yerevan).¹⁴ Perhaps time and a greater sense of security might persuade many of the displaced to remain where they are or move on, but this should not deny them the right of return. Minorities have a heritage to restore and, in the long run, must help to promote tolerance amongst any nation's people.

The co-chairs will of course appreciate that some communities will return more swiftly than others. Those areas lying outside Nagorno-Karabakh, but which have been occupied by Armenian forces, will have to be made safe (beyond any military withdrawal) from mines, dereliction, and ordnance. Before resettlement occurs, property also has to be made safe, (public) infrastructure repaired, and the trappings of regular society (stores, schools, local government) have reached a minimum level of availability and functionality. Some areas, including areas within Karabakh, will be better placed than others, owing to their continuous or recent settlement or inhabitation. On the other hand, such towns, villages, and neighbourhoods will require the current occupiers to be resettled. As a result, certain areas will have to be prioritized for resettlement, generally in phases.

Prior to any return of territory, military personnel and hardware on both sides will need to be withdrawn in accordance with a defined timetable. Any former Armenian-occupied territory is likely to be demilitarized. However, this might not apply to former Azeri-held territory inside Karabakh.

An agreement would provide for the deployment of a multinational OSCE peacekeeping force along the border separating Nagorno-Karabakh from the rest of Azerbaijan. In the event that any part of the seven districts presently occupied is subject to a delayed handover, awaits further agreement as to its final status, or is not to be returned, such peacekeepers should be deployed along that *de facto* or *de jure* line. The peacekeepers ought to be separated from Armenian forces by a specified minimum distance. This would not, however, affect the boundary separating Nagorno-Karabakh from Azerbaijan *de jure*, nor would it restrict movement or (re-)settlement within any area lying between Armenian forces and the peacekeepers.

tion at the time. See Human Rights Watch, *Azerbaijan, Seven Years of Conflict in Nagorno-Karabakh*, New York, December 1994, p. xiii.

12 Azerbaijani forces control the eastern parts of these two districts.

13 The 1989 census recorded 390,505 Armenians living in the Azerbaijani Soviet Socialist Republic (5.6 per cent); 145,000 of these were living in the Nagorno-Karabakh Autonomous Oblast. See *Demoskop Weekly* (Russian), at: http://demoscope.ru/weekly/ssp/sng_nac_89.php?reg=7.

14 The 1989 Soviet census recorded 160,841 Azeris living in the Armenian Soviet Socialist Republic (5.3 per cent). See: http://demoscope.ru/weekly/ssp/sng_nac_79.php?reg=13. As early as 1989, in respect of the Karabakh crisis, the census recorded only 84,860 Azeris (2.6 per cent). See *Demoskop Weekly* (Russian), at: http://demoscope.ru/weekly/ssp/sng_nac_89.php?reg=13.

One of the trickier issues for the co-chairs will be determining the composition of the peacekeeping force. There will be no agreement without Russian participation. Moscow is likely to demand that this be substantial.¹⁵ The other two countries represented on the Minsk Group, France and the United States, are also likely to demand that they be allowed to participate. Provided this is kept to a “reasonable” level, Moscow may not raise any objections. Turkey will probably also want to participate.¹⁶ This is likely to provoke objections from the Armenian side. But these could be satisfied provided any Turkish involvement is limited, perhaps by being restricted to only certain sections of the border (to the east of Karabakh, for example). It would be better if any remaining countries participating were other OSCE participating States, a significant proportion of which would have to be members of the CIS. The peacekeeping force should be deployed for an initial and specified period, subject to further renewal (at the stated time) by the OSCE Ministerial Council.

Any OSCE-brokered agreement could be backed by a United Nations Security Council resolution. This resolution, apart from welcoming the accommodations made and offering its fullest support (including to the wider reconciliation process), should commit the sides to implementation of the agreement in full and in accordance with any stipulated timetables. The resolution could require a country that is a member of the Minsk Group to report to the Council on the progress made by the sides in implementing the agreement every six months for a specified period. The country acting as rapporteur could rotate every six months.

The return of displaced persons, demilitarization, a peacekeeping force, and security guarantees (all part of the Madrid Principles) ought to be matters upon which the sides can reach accord relatively easily. Two issues will continue to bedevil the process, however: status and the Armenian side’s demand

15 On 1 November 2008, Radio Liberty reported that “speculation about a breakthrough in the peace process has focused not on the status issue, but the question of deploying international peacekeepers in the Lachin Corridor and the regions of Azerbaijan bordering the NKR that are currently controlled by Armenian forces. Some analysts have suggested Russia could insist that its 58th Army [author’s note: headquartered in Vladikavkaz, North Ossetia, Russian Federation] take on those responsibilities. But Armenian Defense Minister Colonel General Seyran Ohanian told the Armenian newspaper ‘Irvunk-De Facto’ on October 31 that any peacekeeping force will not be 100 percent Russian.” Liz Fuller, *Russia To Host Talks Between Armenian, Azerbaijani Presidents*, Radio Free Europe/Radio Liberty, 1 November 2008, at: http://www.rferl.org/content/Russia_To_Host_Talks_Between_Armenian_Azerbaijani_Presidents/1337251.html.

16 After denying a report in the Turkish daily *Hürriyet* of 11 February 2009 claiming that Turkey had mediated a “partial” settlement of the Karabakh conflict, Azerbaijani Foreign Ministry spokesman Khazar Ibragim added that Baku and Yerevan had previously publicly agreed more than once to the deployment of an international peacekeeping force with neither “neighbouring countries” (which would include Turkey) nor the three states that co-chair the OSCE Minsk Group contributing troops to such a force. Cf. *MID Azerbaijan*: “*Informatsiya gazety Hürriyet o detalyakh uregulirovaniya nagorno-karabakhskogo konflikt – absurd*” [MFA of Azerbaijan: “Information given by the newspaper *Hürriyet* on Details of a Regulation of the Nagorno-Karabakh Conflict is absurd”], 11 February 2009, at: <http://www.day.az/news/politics/147382.html>.

for a territorial link between Karabakh and Armenia. Recognizing that agreement may not be reached any time soon on these two matters, the co-chairs have introduced into the Madrid Principles (previously absent from the “Prague Process”) the prospect of granting Nagorno-Karabakh an interim status, its final status to be decided (10-15 years) later via referendum.¹⁷

The Armenian side demands that the people of Nagorno-Karabakh be given the opportunity to exercise the right to self-determination¹⁸ – independence, in effect. Baku, on the other hand, will contemplate a high-level of autonomy for Nagorno-Karabakh, but will not allow it to secede from Azerbaijan.¹⁹ These inflexible opposites have compelled the co-chairs to leave the determination of Karabakh’s final status to a future date, in order to enable them to secure agreement on other matters, in order to move the process (finally) forward.

Were Karabakh’s status not to be “kicked into touch”, an Armenian withdrawal from most of the occupied districts would probably not be so contentious. This is altered by the uncertainty that a delay on the determination of status would entail, irrespective of any limited international rights that the agreed interim status would carry. The Armenian side would never agree to withdrawal without the status question being resolved. In the event that Yerevan indicated any such willingness publicly, the authorities in Stepanakert would react, with the probability that the events of 1998 (in Armenia) would be repeated.²⁰ Besides, it is doubtful that the Armenian President, Serzh Sargsyan, has the intention to sign such type of agreement anyway.

The Armenian side would demand that any referendum be conducted almost immediately, a date having been determined, the question or questions agreed (including independence as one of the options), and with any prefer-

17 Speaking at the opening of the Third Armenian-Azerbaijani Public Peace Forum, on 24 March 2009, France’s co-chair Ambassador Bernard Fassier said: “The status of Nagorno-Karabakh cannot be agreed on now, as both suggested solutions – international recognition of Karabakh as an independent state, and its return back into Azerbaijan – are now impossible.” Cited in: Haroutiun Khachatryan, *Armenia and Azerbaijan: OSCE wants civil society groups to help Karabakh peace process*, 2 April 2009, at: <http://www.eurasianet.org/departments/insightb/articles/eav040209af.shtml>.

18 Armenian President, Serzh Sargsyan told Armenian Public Television on 27 October 2008, following a visit to Nagorno-Karabakh that “a resolution of the Nagorno-Karabakh conflict is possible if Azerbaijan recognizes the right of the people of Nagorno-Karabakh to self-determination; if Nagorno-Karabakh has a land border with Armenia; and if international organizations and leading nations guarantee the security of the people of Nagorno-Karabakh.” Cited in: Fuller, cited above (Note 15).

19 Speaking to reporters on 10 June 2009, Azerbaijani Foreign Minister Elmar Mamedyarov stated that the Azerbaijani side was willing to discuss the status of Nagorno-Karabakh on the basis of any model of autonomy which exists in the world and which Armenians want. Cf. *Elmar Mamedyarov: “Armenia should conduct normal neighbor policy”*, 10 June 2008, at: <http://www.today.az/news/politics/45576.html>. During his inauguration ceremony, on 24 October 2008, Azerbaijani President Ilham Aliyev said that “Karabakh will never be independent. Azerbaijan will never recognize it. Neither in five, ten, nor in twenty years. Never.” Cited at: <http://www.today.az/news/politics/48495.html>.

20 The failure of the sides to agree on the “step-by-step deal” in December 1997 despite then Armenian President Levon Ter-Petrosyan’s willingness to sign, left him exposed politically at home and culminated in his resignation on 3 February 1998.

ence of the Karabakh Armenians not being susceptible to defeat by a vote of the majority of the Karabakh Azeris. By contrast again, Baku would prefer a delay, unless the question or questions agreed and the method of determining the outcome were favourable to its preferred result (Karabakh remaining a part of Azerbaijan).²¹ It is probably here where the much-vaunted agreement will be discussed to infinity, neither side needing to object to the idea of a referendum in principle when each is equally aware that the other would never agree to its terms. Another dead-end.

Baku would likely accept a special status for the Lachin corridor, subject to additional and independent international guarantees, but will be highly reluctant to transfer the corridor to Nagorno-Karabakh.²² The Armenian side will not agree to placing it under Azeri authority.²³ Yerevan and Stepanakert might be prepared to sacrifice Kelbajar, provided they regard the type and nature of the corridor agreed as sufficient, but, as with the return of other occupied districts in relation to the resolution of the status question, Kelbajar would become a more critical issue the less satisfied they were by the outcome over Lachin.

It is possible for both sides to reach agreement on the final status of Nagorno-Karabakh. The Armenian side is required only to compromise on the complete independence of Karabakh; Baku, on a hierarchical relationship between itself and Stepanakert. Karabakh can be self-governing, with international personality (including the right to join international organizations), but have its independence restrained via the conclusion of an association agreement between Baku and Stepanakert.²⁴ Nagorno-Karabakh would not be an independent state (*de jure*). It would be required to conduct its external relations, defence, and security policy (alongside certain other matters) in consultation with (but not subject to) Baku. Those entitled (by birth, residence, marriage, or registration) would be citizens of the Nagorno-Karabakh

21 Novruz Mamedov, Head of the International Relations Department in the Office of the President of Azerbaijan, has suggested that a referendum on status will be possible in 15-20 years. He also noted that "these processes can be implemented only after the release of the seven occupied districts and return of Azerbaijani refugees and internally displaced persons to their homes". Cited in: *Provedenie referendumu po opredeleniyu statusa Karabakha v sostave Azerbajijana vozmozno cherez 15-20 let – Novruz Mamedov* [Novruz Mamedov: A referendum to determine the status of Karabakh within Azerbaijan will be possible in 15-20 years], 2 June 2008 (author's translation), at: <http://www.newsazerbaijan.ru/karabakh/20080802/42414384.html>.

22 On 1 April 2008, Azerbaijan's Deputy Foreign Minister Araz Azimov told reporters that the Lachin corridor is important both for Azerbaijan and Armenia, and that Baku officially proposes that the corridor could be used by both parties provided that it remains a part of Azerbaijan. Cf. Araz Azimov: "Baku proposes possible use of Lachin corridor by both parties provided that it remains a part of Azerbaijan", 2 April 2008, at: <http://www.today.az/news/politics/43976.html>.

23 See note 18.

24 Cf. Tim Potier, Association with International Personality: Nagorno-Karabakh in Azerbaijan, in: *European Yearbook of Minority Issues*, 2008, Volume 7 (forthcoming). Such an association agreement could lead to the establishment of a Council of Presidents, Inter-governmental Council, Joint Parliamentary Assembly and Co-ordination Group of Karabakh and Azerbaijani Joint Chiefs.

Republic in association with Azerbaijan, with the right of any person to choose to also be a citizen of the Republic of Azerbaijan.²⁵ Nagorno-Karabakh would remain a part of Azerbaijan (satisfying Baku), whilst retaining (ultimately) its independence (*de facto*), thus satisfying Yerevan and Stepanakert.

Likewise, agreement over the Lachin corridor is possible. Nagorno-Karabakh could be given a territorial link with Armenia. The corridor need not comprise all of Lachin district, but merely a narrow strip of territory, i.e. the town of Lachin, plus the remainder of the road and a belt of land on either side of the road (to be demarcated). The aim of this would be to keep to an absolute minimum (beyond the municipal boundaries of Lachin) the number of dwellings included within the corridor. There would be a right of free movement of persons along or across the corridor (without discrimination), the free movement of goods subject to any customs regulations and/or duties (again without discrimination, for entry only) of the Nagorno-Karabakh Republic (of which the corridor would form a part). Only members of the Nagorno-Karabakh Republic armed forces, plus its (registered) military hardware would be able to be deployed or positioned within the corridor. With Karabakh in a condition of association with Azerbaijan, the Lachin corridor would remain a part of Azerbaijan. Once such an arrangement had been agreed, Kelbajar and the remainder of Lachin district could be returned to the Republic of Azerbaijan with little cause for complaint.

The authorities in Nagorno-Karabakh continue to be excluded from the process. It is noticeable that the co-chairmen visit Stepanakert today less than they used to. However, Yerevan cannot ignore opinion in the territory. An agreement lacking the approval of Stepanakert is no agreement at all. Although Baku's refusal to allow Karabakh to be represented in the process (as representing the people of Nagorno-Karabakh) is understandable (including in international legal terms), it may (once certain understandings are reached between the two sides) be to Baku's advantage, at some stage, to allow Karabakh Armenian representatives to participate on the Armenian side. So long as Stepanakert is absent, the prospect of any agreement is extremely slim. Indeed, it enables the Armenian side to emphasize differences that Yerevan can then use to justify its failure to make necessary compromises.

The Armenian side has proved willing to suffer the consequences of its demands. It has excluded itself from the fruits of Caspian oil. There is every reason to suppose that it will hold firm and not back down from its positions. In this sense, therefore, the prospects for a settlement may soon appear

25 In the section on citizenship in: Association with International Personality: Nagorno-Karabakh in Azerbaijan, cited above (Note 24), I write: "Karabakh Azeris would, by virtue of residence, be regarded as citizens of Nagorno-Karabakh, their registration only being required in order to manifest their (civil, political, economic, social and cultural) rights. Any citizen of Nagorno-Karabakh (including ethnic Armenians) would be entitled to Azerbaijani citizenship also, without, as residents of Karabakh, being entitled to exercise political rights."

hopeless, the work of the co-chairs doomed, and war the only option available for Baku. Yet, war will not assist the Azeris. Moscow, under any circumstances, would be certain to back the Armenian side, and any Western assistance to Baku would be inadequate in comparison – the West not wanting to sacrifice certain other objectives in its correspondence with Moscow for the sake of Azerbaijan. War would lead to a second defeat for Azerbaijan. The Armenian side (including the Karabakh Armenians) will begin to make the necessary adjustments to their position when it serves them, and not before. What must be hoped for then, is that Baku has participated equally and in tandem in any process of adjustment and, at the given time, is also willing to compromise. Otherwise an internationally approved settlement will not be found, and the conflict, despite any process, will remain “frozen”. This is why the Minsk Group’s work is so essential.

There will be no peace in the south Caucasus, nor over Nagorno-Karabakh, until the Armenians (including the diaspora) identify their place in the world. Although they may rarely specify it, Karabakh is a result of the will to survive, the desire for soil that they can proclaim theirs and keep, and a suspicion towards others that history has carved onto them. Does that sound familiar? Karabakh cannot be solved until enough Armenians have settled upon a more rounded view of Turkey and Turks. It is not that there is no substance to their position, but the Armenians this past century have made *themselves* the prisoners of their own losses. This is where the Swiss-mediated process between Ankara and Yerevan is so vital.²⁶ Indeed, in 2009, it was probably more essential than the talks between Yerevan and Baku. No doubt, Yerevan is disappointed by the apparent linkage in practice between rapprochement with Ankara and progress on Karabakh.²⁷ It should not be. With-

26 On 22 April 2009, in a joint statement issued by their foreign ministers, Turkey and Armenia announced that they had agreed “to develop good neighbourly relations in mutual respect and progress peace, security and stability in the entire region”. The statement went on to say that “the two parties have achieved tangible progress and mutual understanding in this process and they have agreed on a comprehensive framework for the normalisation of their bilateral relations”. Cited in: *Turkey and Armenia set “roadmap”*, BBC News, 23 April 2009, at: <http://news.bbc.co.uk/2/hi/europe/8014008.stm>. Although it has not been made public, the “roadmap” includes the restoring of diplomatic relations and the re-opening of the border between the two neighbours. This was reflected in the protocols signed by the foreign ministers of both countries in Zurich on 10 October 2009. As of December 2009, the accords had not been ratified by either country’s parliament.

27 In an interview with the Azerbaijani news agency Trend News reported on 13 June 2009, Turkish Foreign Minister Ahmad Davudoglu said: “There is a need for progress and development in the resolution of the Nagorno-Karabakh conflict to normalize [the] situation in the region. All sides must work in this direction.” Cited in: *Resolution of Nagorno-Karabakh conflict crucial for tranquility in S. Caucasus: Turkish FM*, 13 June 2009, at: <http://news-en.trend.az/politics/foreign/1487659.html>. However, it would appear that Washington does not support such a linkage. Speaking at a news conference in Yerevan, on 9 June 2009, US Assistant Secretary of State Philip Gordon, whilst reaffirming Washington’s strong support for the negotiations aimed at normalizing Turkey-Armenia relations, added: “Turkey-Armenia normalization would benefit Turkey, it would benefit Armenia, and it would benefit the entire region. Because of that, we don’t think it should be linked to anything else.” Cited in: Emil Danielyan/Ruben Meloyan, *U.S. Envoy Upbeat*

out such a linkage there would be no reason for the Armenian side to reflect upon, and find a new perspective on, Karabakh and other items beside – in which case, the evergreen stalemate would outlive us all. Rather, the Turkey-Armenia process, which the Karabakh Armenians and the Armenian diaspora must be made increasingly to feel a part of, will form the basis of a settlement, one that also encompasses Karabakh.

Russia will need to play a leading role in the determination of any settlement over Nagorno-Karabakh. The Moscow Declaration of 2 November 2008 already demonstrates Russia's particular status as *primus inter pares*.²⁸ It is welcome that Paris, Washington, and other OSCE participating States have been supportive of the privileged position that Moscow enjoys vis-à-vis the sides.²⁹ The Declaration is not a harbinger of the future direction of the process – the Minsk Group will not fade in importance – but it does offer some recognition of history not being denied and of Moscow's role in the realization of international peace and security. The disparity between Russian and Western values that was evident throughout much of the 20th century is much less marked today, giving cause for optimism that a US-Russian partnership will emerge, this time based on substance rather than rhetoric. This is not to suggest that the United States' presence in a region like the Caucasus will be any less. In the modern world, power and influence will increasingly be reflected in language, popular culture, and the preferences of youth, rather

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- 28 *On Turkey-Armenia Relations*, Radio Free Europe/Radio Liberty, 10 June 2009, at: http://www.rferl.org/content/US_Envoy_Upbeat_On_TurkeyArmenia_Relations/1751225.html. Signed by the Armenian and Azerbaijani presidents and Russian President Dmitry Medvedev following a summit at Castle Mayendorf, outside Moscow, the Declaration became the first document signed by both the Armenian and Azerbaijani presidents since the 1994 ceasefire. In it, both sides agree to settle the Nagorno-Karabakh conflict by political means, on the basis of the principles and norms of international law, through direct dialogue, under the auspices of the OSCE Minsk Group (continuing the mediation efforts begun in Madrid on 29 November 2007). A peaceful settlement must be accompanied by legally binding international guarantees, in all aspects and stages. It is important to encourage the creation of conditions for the implementation of confidence-building measures. It is noted that such a settlement will create favourable conditions for economic development and all-round co-operation in the region. The presidents of Azerbaijan and Armenia instruct their ministers for foreign affairs to intensify further steps in the negotiation process in conjunction with the co-chairmen of the OSCE Minsk Group. An unofficial translation of the Moscow Declaration can be found at: <http://realarmenia.wordpress.com/2008/11/02/the-declaration-of-the-republic-of-azerbaijan-armenia-and-the-russian-federation/>
- 29 As a statement (dated 5 December 2008, MC.DOC/1/08) issued at the sixteenth meeting of the OSCE Ministerial Council (in Helsinki) noted (in the second and final paragraph): "The Moscow Declaration signed by the Presidents of Armenia, Azerbaijan and Russia opened a promising phase in the process of settling the conflict. We strongly encourage the sides in their aspiration to intensify efforts in the negotiation process, in accordance with the provisions of the Moscow Declaration and in co-ordination with the Co-Chairs of the OSCE Minsk Group, to further elaborate the Basic Principles proposed in Madrid on November 29, 2007 and then begin drafting a comprehensive Peace Agreement. We highly appreciate their intention to develop confidence building measures and to consolidate the ceasefire". Ministerial Statement, MC.DOC/1/08, 5 December 2008, in: Organization for Security and Co-operation in Europe, *Sixteenth Meeting of the Ministerial Council*, 4-5 December 2008, Helsinki, 5 December 2008, p. 3, available online at: <http://www.osce.org/item/36852.html>.

than whose guns and bombs are located where – as much a sign of weakness and *insecurity* as anything else. Besides, Caspian oil and gas will enable Azerbaijan, Georgia, *and* Armenia (in due course) to further diversify their commercial relations, and exploiting such resources successfully demands peace and stability. The European Union, unofficially represented in the Minsk Group, will be required, as a constitutional settlement is found in Nagorno-Karabakh and Georgia thereafter reaches its own similar accommodation in Abkhazia and South Ossetia, to look more seriously at the prospect of the three south Caucasus states (plus, perhaps, those with whom they are in association) being admitted into the European family of nations by the end of the coming decade.³⁰

Conflict is generated by people. They also have the capacity to perpetuate it. Just like a wound left naturally, it will heal or not at its own pace. Usually a wound heals. Usually people make-up, but it can take time. In respect of Nagorno-Karabakh and the issues surrounding it, the international community and the Minsk Group are about to enter the most difficult stage in any peace process: convincing the people. This requires nerves of steel, because people can be horrible (including to each other), but if time is given, a process can succeed and help prevent future conflict. After all, that is the true mark of any peace: never knowing the pain, suffering and tragedy of what could have been.

30 Currently, EU relations with Armenia, Azerbaijan, and Georgia are governed by separate partnership and co-operation agreements. All were signed in 1996 and entered into force in 1999. See European Commission, External Relations, for Armenia at: http://ec.europa.eu/external_relations/armenia/index_en.htm, for Azerbaijan, at: http://ec.europa.eu/external_relations/azerbaijan/index_en.htm, and for Georgia at: http://ec.europa.eu/external_relations/georgia/index_en.htm.

The OSCE Centre in Astana at Ten: Activities and New Directions

Introduction

On 1 January 2010 Kazakhstan will become the first country of the former Soviet Union to hold the OSCE Chairmanship. Uniquely, it will also be the first country to hold the Chairmanship while remaining host to an OSCE field mission: the OSCE Centre in Astana. With Kazakhstan already a member of the rotating Chairmanship Troika, Central Asia is becoming a region of renewed focus.

In March 2009, the Centre and the Kazakhstani Ministry of Foreign Affairs celebrated the tenth anniversary of the OSCE's presence in Kazakhstan and the entry of Kazakhstan into the OSCE Troika. This occasion provided a significant opportunity to recognize and evaluate the wide range of activities carried out by the Centre over the past decade and to highlight its contributions in light of the upcoming Kazakhstani Chairmanship and the prospect of even greater OSCE involvement in Central Asia after 2010. Indeed, the OSCE Centre in Astana today finds itself on the verge of several important turning points that affect not just its own work, but that of the OSCE as a whole.

An anniversary is an occasion not only to reflect upon the past but also to anticipate future directions and orientations. Despite the excitement surrounding the Centre's ten-year anniversary and the upcoming Kazakhstani Chairmanship, one has to bear in mind that, in many respects, the work of the OSCE is long-term. After 2009 and 2010, life for all of us will go on. Kazakhstan's transition from the Soviet system – and mindset – to a modern, democratic, developed society since independence less than 20 years ago will require not just a span of months or years of continuing efforts, but perhaps even generations.

In this endeavour, the Centre and the OSCE as a whole provide active and positive support to the host country, leveraging the Organization's expertise and the tools it has available. For me, as a career diplomat with considerable experience in East-West relations,¹ this is both a challenging and a

Note: The views contained in this contribution are the author's own and do not necessarily reflect those of the OSCE.

- 1 Including several assignments at the French Ministry of Foreign Affairs East European desk, diplomatic posts in New Delhi, Belgrade, Rabat, Moscow, and Saint Petersburg, as well as serving as the Director for OSCE and Council of Europe Affairs and Special Counsellor to the Director General of France Coopération Internationale for the promotion of expertise in governance, human rights, anti-corruption activities, and institutional capacity building.

fascinating endeavour, particularly in view of 2010 Kazakhstani Chairmanship. At its core, I view the mission of the OSCE in Kazakhstan to strive to meet the needs and requests of the country – its official bodies as well as the civil society – to encourage positive trends, and to provide international expertise and best practices, rather than excessively impose, pressure, or criticize. It is with this philosophy in mind that I have sought to shape the activities and areas of engagement of the OSCE Centre in Astana.

Background and Centre Mandate

In January 1999, based on OSCE Permanent Council Decision No. 243 of July 1998, the OSCE Centre in Almaty opened its doors. In March 2003, a small liaison office was set up in Astana, Kazakhstan's new capital since 1998. In June 2007, in light of the increase of activities in Astana and the heightened need to develop closer contacts with central authorities, the OSCE Permanent Council adopted a new mandate, Decision No. 797, officially creating the OSCE Centre in Astana, while keeping open an OSCE Liaison Office in Almaty.

The current mandate charges the OSCE Centre in Astana with the following tasks: promoting the implementation of OSCE principles and commitments in all three OSCE dimensions within the OSCE framework approach to co-operative security; facilitating contacts and promoting information exchange between Kazakhstani authorities and OSCE structures; establishing and maintaining contacts with central and local authorities, universities, research institutes, and civil society; arranging regional OSCE events, seminars, and visits; and providing assistance to the government of Kazakhstan in raising awareness of OSCE activities, training Kazakhstani officials, facilitating information exchange between OSCE institutions and relevant state agencies on OSCE activities.²

The Centre's Activities

Military Co-operation

A key priority of the Centre in the field of military co-operation is enhancing regional confidence- and security-building measures. The implementation of relevant OSCE documents, particularly the Vienna Document 1999, is the regular focus of workshops organized in co-operation with the Ministry of

2 Cf. Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 797: Mandate of the OSCE Centre in Astana*. PC.DEC/797, 21 June 2007. The Centre staff currently comprises six international officers and about 20 national experts representing seven of the 56 OSCE participating States (France, Germany, Italy, Norway, USA, Austria, and Kazakhstan).

Defence of Kazakhstan. A series of training seminars for military officials take place every year. In May 2009, a two-day seminar of a somewhat different nature took place, involving experts and military representatives from both Central Asia and the Caucasus. The purpose of this event was to present new approaches on confidence- and security-building measures given recent international strategic developments, such as the uncertain situation in the Caucasus and the emergence of non-traditional threats including terrorism, organized crime, and trafficking in drugs and human beings.

As part of another important military initiative, the Centre, together with the OSCE Forum for Security Co-operation (FSC) in Vienna, is working to secure and destroy aging stocks of arms and ammunition depots, and to dispose of the toxic rocket fuel component known as *mélange*. These efforts are part of a two-pronged strategy that considers the dangers of these materials in terms of their potential environmental harm and the risks they pose if they fall into the hands of extremist or other dangerous groups.

To ensure broad effectiveness on the regional level, the Centre is working on military issues in co-ordination with other Central Asian field presences. In September 2008, within the framework of a sustained regional effort, the Centre in Astana and the OSCE Conflict Prevention Centre (CPC) in Vienna organized a three-day seminar in Almaty on fostering co-operation in military structures and helping the five Central Asian countries implement their commitments under the OSCE Code of Conduct on Politico-Military Aspects of Security. The seminar emphasized ensuring democratic control of armed forces and promoting security in Central Asia and the whole OSCE region.

Combating Terrorism and Organized Crime

Terrorism and organized crime are serious threats to security that span all of Central Asia. In addition to the financial tools developed to fight terrorism and organized crime listed later in this article, one of the major initiatives pursued by the Centre, alongside the other OSCE missions in Central Asia, was a four-month joint training programme in which police dog handlers were trained in combating terrorism and organized crime. In 2006, the Centre, in co-operation with the OSCE's Warsaw-based Office for Democratic Institutions and Human Rights (ODIHR), held a training module for senior public officials aimed at familiarizing the audience with international legislation in the field of human rights and fundamental freedoms protection and discussing major developments and dilemmas for human rights in the fight against terrorism. In addition to these activities, the Centre has sponsored the participation of Kazakhstani officials in high-level meetings abroad on combating trafficking in illicit drugs and strengthening international legal co-operation to combat transnational organized crime and terrorism.

The OSCE Centre in Astana also emphasizes law enforcement reforms and the promotion of democratic principles in law enforcement authorities. A key accomplishment in this field has been the establishment of the Police Development Co-operation Project. With the support of the Kazakhstani Ministry of Internal Affairs, ODIHR, and the OSCE Strategic Police Matters Unit (SPMU), this programme incorporates four component targets of reform: community policing, public oversight, education, and legislative reform.

In police-related issues, a top priority is to bring national laws into accordance with international standards, and the Centre is currently working to develop a set of recommendations to achieve this goal. In addition, international experts have been invited to advise Kazakhstani officials and support reforms to the law enforcement sphere in Kazakhstan. Major recent accomplishments include a series of regional events in co-operation with the SPMU on the practical implementation of the Guidebook on Democratic Policing, a long-term pilot project on international standards in police stations and pre-trial detention centres in Almaty, and a five-part training programme on improving community policing practices in Kazakhstan.

At the regional level, the Centre emphasizes joint activities and exchanges with other Central Asian states, often with the support of ODIHR. In June 2008, together with the Kazakhstani Ministry of Internal Affairs and local implementing partners, the Centre hosted a conference on ways to improve police activities through more effective co-operation with civil society, legislative reforms, and the protection of human rights.

Border Management

Border security is a key area for OSCE engagement, not just because of the ways that it benefits the host country domestically, but also due to its regional importance. It is a cross-cutting issue that encompasses priorities from regional confidence and security building to fighting corruption, from facilitating trade and transportation to combating human trafficking. As such, the OSCE Centre in Astana continues to co-operate with a range of stakeholders in order to improve Kazakhstan's border security and border management. In 2009, it collaborated with the International Organization for Migration (IOM) in conducting a series of training courses for border guards on modern border inspection techniques, the detection of illegal border crossings and smuggling activities, and fighting corruption on the border.

One recent border-security activity of regional significance was a five-day workshop in June 2008 at the Merke border crossing between Kazakhstan and Kyrgyzstan, which focused on passport control, human trafficking, and vehicle inspection techniques. Twenty border officials from across Kazakhstan, under the instruction of local and international experts, were joined

by their Kyrgyz counterparts to discuss co-ordination of border management. The workshop was made possible through co-operation with the IOM, the EU Border Management Programme for Central Asia (BOMCA), the UNHCR, and the Kazakhstani Border Service.

In July 2008, the Centre also participated in a two-day workshop in Bishkek that included all five OSCE Central Asian field presences. The focus of that workshop was border management and security as a gateway for enhanced co-operation.

Combating Corruption and Money Laundering

The central topics of the OSCE Centre's activities in the economic field focus upon sustainable development through good governance in order to help build an open society and democratic institutions that rely on the rule of law. This approach recognizes the fact that an open economy is a cornerstone of a stable society and is a key for the prevention of emergent social tension.

Thus, the primary area of activity for the Centre in the economic field is its anti-money-laundering framework, which continues to promote legislation to combat the financing of terrorism and give support to national anti-corruption measures by providing expertise and the introduction of international best practices. The Centre has been involved in facilitating training for the Kazakhstani Financial Police in investigating corruption cases and a legal review of the fight against corruption in the underground economy. It also promoted the creation of the Kazakhstani Financial Intelligence Unit (FIU) to deal specifically with issues of money laundering and terrorist financing. The FIU came about as the result of consultations on a draft law and an inter-agency working group.

Transportation and Trade

Another important economic priority for the Centre is the facilitation of stable and secure cross-border trade and transportation, which, along with integrity in the sphere of customs, is significant from the perspective of both economic efficiency and security, as it reduces opportunities for corruption, illicit trafficking, and transnational crime and terrorism. The Centre has worked closely with the Office of the Co-ordinator on OSCE Economic and Environmental Activities (OCEEA) in Vienna to streamline customs and border-crossing procedures, which pose a particular obstacle to trade for landlocked Kazakhstan. One recent initiative brought together some 50 representatives of customs departments from Kazakhstan's regions, international experts, including some from the UN and the World Customs Organization (WCO), and private sector representatives to improve the implementation of international legal instruments to facilitate cross-border trade and transport. The First Preparatory Conference to the 18th OSCE Economic and Environ-

mental Forum, held in Astana in October 2009, also named land transport and good governance at border crossings as key OSCE priorities.

Environmental Transparency

The OSCE Centre concentrates on raising awareness of the importance of environmental issues for regional security. The Centre is a leader in promoting the implementation of international environmental agreements in Kazakhstan, especially with regard to public access and participation in environmental decision-making.

In the past year, the Centre has conducted events to train judges in applying relevant national and international standards of environmental transparency and to encourage the involvement of grassroots NGOs in environmental decision making. The Centre is also currently involved in a project to open Aarhus Centres (based on the 1998 UN Aarhus Convention) on environmental transparency and public participation in environmental decision making in several Kazakhstani regions. This is part of a long-term plan to promote the implementation of the Aarhus Convention among governmental institutions and civil society in Kazakhstan.

A related area in which the Centre is also engaged is the Extractive Industries Transparency Initiative (EITI), to which the Centre has given significant attention. EITI, an arrangement under which companies and host governments voluntarily publish payments and receipts relating to extractive industries, has achieved significant resonance in Kazakhstan with the help of the Centre. Not only did it help facilitate an EITI training seminar for journalists in 2008, but this year the Centre co-hosted a seminar for EITI stakeholders in western Kazakhstan on increasing revenue transparency across the extractive-industry value chain, especially in social infrastructure projects.

In addition, as a follow-up to the 16th OSCE Economic and Environmental Forum in May 2008 in Vienna, the Centre raised stakeholder awareness on international maritime conventions in order to improve the effectiveness of oil-spill response plans in Kazakhstan. A three-day seminar in Aktau, organized by the Centre, the Ministry of Emergency Situations, and the NGO coalition EcoForum, identified measures to strengthen the legal and institutional framework relating to oil-spill prevention and response and emphasized regional co-operation and the need for a balance between economic development and environmental protection.

Sustainable Development

On sustainable development, the Centre in Astana has assisted Kazakhstan in implementing its Concept on Transition to Sustainable Development 2007-2024, raising awareness among state officials and NGOs. In 2008, the Centre finalized its project on sustainable development education, as a result of

which modules on ecology and sustainable development will be included in national education curricula. It also helped launch a sustainable development training course for business managers and is currently involved, together with the United Nations Environment Programme (UNEP) and local partners, in developing a Kazakhstani model of sustainable production and consumption.

Regional Environmental Co-operation

The environment is a primary focus of the Centre's work, and is critical for enhanced co-operation between neighbouring Central Asian states. The settlement of environmental issues, particularly the rational and co-ordinated use of water resources, can brighten prospects for bilateral and regional co-operation across Central Asia. The Centre not only supports concrete activities related to co-operation of this kind, but also works hand-in-hand with other OSCE missions in Central Asia to realize these benefits. In co-operation with the United Nations, the Centre has organized regional events on transboundary co-operation in the management of groundwater resources and has also assisted in developing the mandate of the bilateral water commission between Kyrgyzstan and Kazakhstan on the Chu and Talas rivers.

In 2009, the Centre also supported a series of Integrated Water Resource Management training seminars for regional basin council members and formalized co-operation with the Kazakhstani branch of the International Fund for Saving the Aral Sea (IFAS).

Judicial Reforms

The OSCE Centre in Astana, in co-operation with ODIHR, supports efforts to reform the criminal justice system, assists Kazakhstan in implementing international human rights agreements, and provides international expertise in the drafting of legislation related to human rights and civil society. It is involved in judicial and legal reforms, including the analysis of the status of judicial reforms, the penitentiary system, the humanization of criminal justice policies, investigative procedures, legal aid, and the draft administrative code. The Centre also observes the human rights situation in Kazakhstan, monitoring trials and maintaining contacts with local partners. This is part of the broader goal of strengthening civil society, including local human rights and women's organizations and a wide range of other NGOs.

Human Rights and Religious Issues

In the area of human rights and civil society, it is the aim of the OSCE Centre in Astana to work with governmental and non-governmental actors to promote a constructive dialogue on human rights issues. Because respect for human rights constitutes a fundamental prerequisite for the development of a

democratic society, awareness-raising and education are important means of ensuring that citizens know their rights and how to protect them.

An important example of this is in the sphere of religion. In co-operation with NGOs and with the involvement of parliamentarians, state officials, and religious leaders, the Centre has organized debates on legislation concerning religious freedom. It also assisted ODIHR in arranging consultations between national authorities and international experts to ensure that the rights of all religions, majority and minority, are taken into account in legislation, which is made compliant with international commitments.

Anti-Trafficking

One of the Centre's main activities is to support Kazakhstan's efforts in the fight against trafficking in human beings. This means raising awareness among the general public, NGOs, and local and national government authorities. The Centre facilitates discussion on this problem between relevant parties, including on how to identify and protect victims of trafficking and investigate cases. In addition, it supports national anti-trafficking measures, which include a national referral mechanism and a co-operative framework for victims' rights. In the area of human trafficking, the Centre concentrates on labour exploitation, given Kazakhstan's role as a destination for labour migrants from neighbouring Central Asian countries.

Over the past two years, the Centre has supported an initiative of the Ministry of Justice to co-organize an enlarged session of the Interagency Commission on Fighting Trafficking in Persons, with the participation of NGOs from Kazakhstan's regions. Together with the SPMU, the Centre also conducted a three-week training course for prosecutors and police on new investigative techniques, and continues to train regional officials on international standards with the help of ODIHR experts and an extra-budgetary contribution from Germany. In October 2009, the Centre co-organized a training seminar for Kazakhstani judges on good practices in handling human trafficking cases.

Gender Equality

The work of the Centre also encompasses gender equality and the prevention of domestic violence. Here, the primary focus is on raising awareness of gender issues and developing a strategy for greater female political participation. The Centre has been involved with parliamentarians, state officials, national and international experts, and NGOs in organizing a wide range of events and round-table discussions on how legislation can ensure gender equality and women's rights. The Centre recently worked together with NGOs and government to develop a Strategy for Gender Equality and the National Action Plan for its implementation. In co-operation with national stakeholders and

other international organizations, the Centre assists in drafting legislation on equal rights and opportunities and the prevention of domestic violence, and supports capacity-building for women's organizations. In October 2009, the Centre, ODIHR, and the Kazakhstani Parliament organized an OSCE round-table meeting to discuss a draft law on combating domestic violence and present ODIHR commentaries on its compliance with international standards.

Elections

Open and transparent elections are a cornerstone of the OSCE as a whole. They are a key element of the democratic process and can increase trust in the political system. The Centre therefore co-operates with Kazakhstan's Central Election Commission (CEC), political parties, and civil society to promote OSCE electoral standards. Since 2001, the Centre has organized round-table discussions on electoral legislation reform, an effort which led to a comprehensive package of proposals on amending and improving electoral legislation. The first draft of the proposed amendments was delivered in July 2003 and a second draft in September 2003. Reviews of the draft legislation by ODIHR in September 2003 and August 2004 gave additional recommendations for the improvement of the Kazakhstani electoral system. Today, the Centre continues to facilitate co-ordination between ODIHR and the CEC in order to reform legislation in accordance with the 2004 assessment.

Prior to the 2005 presidential election, training courses on electoral education and civic awareness, especially for teachers and young voters, were made possible by the OSCE. In the run-up to the 2007 parliamentary elections, the Centre also sponsored training modules for local observers and journalists. ODIHR and its election observation missions hold the mandate for the monitoring of the elections in Kazakhstan, but the Centre supports co-operation between ODIHR and the CEC of Kazakhstan. Once again, the focus of this co-operation remains the reform of Kazakhstan's election legislation and efforts to bring it into compliance with OSCE commitments in the field of democratic elections and OSCE/ODIHR recommendations.

Media Development

The promotion of freedom and independence of the media in Kazakhstan is a priority of the OSCE Centre in Astana. Co-operation with the Representative on Freedom of the Media (RFOM), another OSCE institution based in Vienna and providing international expertise, is indispensable for addressing infringements of press freedom, monitoring problems encountered by journalists in carrying out their work, and improving media legislation in the country. The Centre actively co-operates with the media community and civil society to promote wider public discussion of press freedom and media legislation reform.

In the past, the Centre has led a series of workshops to draft amendments to Kazakhstani media laws, with the participation of local journalists, NGOs, legal, and media experts, and state officials. It has also sponsored activities to increase the skills of Kazakhstani journalists through training courses on topics such as journalism basics, economic and environmental issues, human rights, terrorism, and investigative journalism. Other activities in this area have included sponsorship of publications for journalists on international standards and journalism practices, legislative provisions, and how to deal with government press officers and NGOs. The Centre also helped set up internet cafes for media professionals in the cities of Astana, Kostanai, Pavlodar, and Taraz and offered special training courses on the use of the internet as a research tool for local journalists and journalism experts.

One noteworthy regional event took place in October 2008, when the OSCE Centre aided the Office of the RFOM in organizing the tenth Central Asia Media Conference, which brought together media professionals and government officials to discuss media developments in Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan. The conference found that, if introduced, public-service broadcasting in Central Asia would foster the process of democratization and ensure effective implementation of civil and political freedoms. Representative on Freedom of the Media, Miklós Haraszti, also reinforced the importance of public-service broadcasting as a basic tool of democracy and encouraged Central Asian governments to transform state-owned broadcasters into independent public services.

Conclusion

The tenth anniversary of the OSCE field presence in Kazakhstan and the entry of Kazakhstan into the OSCE Troika is an appropriate occasion to highlight the progress made by the OSCE Centre in Astana, and broadly speaking by the OSCE, in providing the best possible assistance and expertise, and also to recognize Kazakhstan's achievements on its journey towards democracy. When the OSCE Centre in Almaty opened in 1999, no one could have predicted the remarkable situation in which we find ourselves today. The fact that much of the Centre's work today is cast in terms of preparations for the 2010 Kazakhstani OSCE Chairmanship tells a meaningful story. Kazakhstan will become the first former Soviet country to take the reins of the OSCE. In doing so, it holds the potential to usher in a new era of OSCE engagement and bring Central Asia closer to the countries "West of Vienna", while enabling the latter to better understand developments taking place "East of Vienna". This after all is what lies at the core of the unique endeavour that is the OSCE.

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

Note: The author writes in her personal capacity. She would like to acknowledge the indispensable support of her colleagues from Planning and Analysis, CPC/OS, John Crosby, Joop de Haan, and Erik Falkehed, the Deputy Director of the CPC/OS Jarosław Pietrusiewicz, and the Prague Office of the OSCE Secretariat.

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.

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.

Comprehensive Security: The Three Dimensions and Cross-Dimensional Challenges

OSCE Election Observation

Commitments, Methodology, Criticism

Election observation is one of the most politically sensitive field activities carried out by the OSCE. In the mid-1990s, it represented a new challenge for countries both West and East of Vienna. If at first it was generally accepted positively, attitudes in several countries changed abruptly during the years of the so-called colour revolutions. Above all the basic attitude of Russia and a number of states close to it changed in this period. A key event was Russia's own parliamentary elections of 2003. The report of the international election observation mission concluded that many OSCE and Council of Europe commitments for democratic elections had not been fulfilled, and that "Russia's fundamental willingness to meet European and international standards for democratic elections" were called into question.¹ Four years later, at the 2007 Madrid Ministerial Meeting, Russia's Foreign Minister Sergey Lavrov declared, with regard to OSCE's election observation activities, that "it would seem that we have reached the 'point of no return': either we shall all agree together on rules for election monitoring or the differences in this area will threaten the prospects of the ODIHR as one of the institutions of our Organization."²

That particular crisis was nonetheless transcended, and negative expectations proved unfounded. On the contrary, since early 2008, many of the delegations in Vienna have stressed their desire for dialogue, both in general and specifically with regard to election monitoring, albeit with the strict proviso that neither the institutional independence of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) nor its tried-and-tested election observation methods be called into question. Symbolic of a kind of reconciliation after years of discussions, on 21-22 July 2008, the Finnish Chairmanship hosted a seminar on election-related issues in Vienna, which was well attended. Since then, OSCE election observation missions have been continued to be received, even by states that are critical of their activities.

1 OSCE/ODIHR/OSCE Parliamentary Assembly/Parliamentary Assembly of the Council of Europe, Russian Federation State Duma Elections, 7 December 2003, International Election Observation Mission, *Statement of Preliminary Findings and Conclusions*, Moscow, 8 December 2003, p. 1, at: http://www.osce.org/documents/odihr/2003/12/1629_en.pdf.

2 Sergey Lavrov, *Statement at the 15th Meeting of the Ministerial Council*, MC.DEL/34/07, 29 November 2007.

The discussion of OSCE election observation revolves around commitments, criteria, and transparency. While there is general agreement that election observation must be based on the commitments entered into by the participating States and assess their fulfilment or non-fulfilment, there is disagreement over exactly what these commitments are at heart and how their fulfilment should be made measurable. The broad nature of OSCE commitments makes observation criteria matters of interpretation.

Election-related commitments within the OSCE framework can be divided into commitments related to elections (basic principles, polling procedures) and commitments related to election monitoring.

While general commitments concerning democracy and the rule of law as foundations of political systems are relevant here, they go far beyond the topic of election monitoring. They can neither be considered here, nor can they be the object of election observation in a narrow sense. Nonetheless, they regularly trigger discussions on individual aspects of election monitoring.

On a different level, we distinguish between original and interpretive commitments. As will be shown, original commitments relating to the holding of democratic elections are not called into question by even the critical states – at least not in so many words. It is a different story with regard to those commitments that have come into being as a result of interpretation and implementation by ODIHR and the participating States themselves in the form of practically implemented interpretive standards – creating a kind of customary law in the process.

Original Commitments Regarding Elections

The participating States' original commitments relating to the holding of elections are largely derived from only two documents – the Copenhagen Document and the Charter of Paris (both 1990).

These include general principles such as the commitment to regular, free, secret, and fair elections and accountability towards the electorate (Charter of Paris, 1990), the commitment to guarantee universal and equal suffrage and the right to stand for election, to the freedom of individuals and groups to establish political parties and for them to enjoy equal treatment under the law, to unimpeded access to the media, to the accurate counting and reporting of votes, and so on (Copenhagen Document, 1990). These commitments very much set the agenda in the transition period up until the end of the 1990s and made a not inconsiderable contribution to the reorganization of state structures in most of the CIS countries. It appears that even today they are still understood to be authoritative by the overwhelming majority of the

political leadership in the CIS area, even if some see this as merely a matter of formal compliance.

Original Commitments Regarding Election Monitoring

The original commitments of the participating States regarding *election observation* serve essentially to legitimate election observation and govern only a small number of details in addition. Together with the decisions on ODIHR's election monitoring function, they are based in large part on the following eleven documents:

1. Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (Copenhagen Document, 1990)
2. Charter of Paris for a New Europe (Charter of Paris, 1990)
3. Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE (Moscow Document, 1991)
4. Prague Document on Further Development of CSCE Institutions and Structures (Prague Document, 1992)
5. CSCE Helsinki Document 1992: The Challenges of Change (Helsinki Document, 1992)
6. CSCE and the New Europe – Our Security is Indivisible (Rome Document, 1993)
7. Budapest Document 1994: Towards a Genuine Partnership in a New Era (Budapest Document, 1994)
8. Charter for European Security (Istanbul Charter, 1999)
9. Ministerial Council Decision No. 7, Election Commitments (Porto 2002)³
10. Ministerial Council Decision No. 5/03, Elections (Maastricht 2003)⁴
11. Ministerial Council Decision No. 19/06, Strengthening the Effectiveness of the OSCE (Brussels 2006)⁵

In the 1990 Copenhagen Document, the participating States reaffirmed that “the presence of observers [...] can enhance the electoral process [...] They therefore invite observers from any other CSCE participating States and any appropriate private institutions and organizations.”⁶ The Office for Free Elections (established by the 1990 Charter of Paris) was mandated to “facilitate

³ MC(10).DEC/7, 7 December 2002.

⁴ MC.DEC/5/03, 2 December 2003.

⁵ MC.DEC/19/06, 5 December 2006.

⁶ Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen 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, here: p. 445, para. I (8).

contacts and the exchange of information on elections” and to draw up “reports of election observations”.⁷

When ODIHR was created and given its mandate (1992 Prague and Helsinki Documents), the task of election observation was at first not explicitly renewed, but it was of course implicitly maintained in the Prague Document, which expanded many of the OSCE’s functions.⁸ In Rome, in 1993, the intention to strengthen the role of ODIHR in election observation was mentioned explicitly.⁹

The commitment, currently being cited so often, to election monitoring “before, during and after elections” is laid down in the 1994 Budapest Document.¹⁰ The 1999 Istanbul Charter recognized the assistance provided by ODIHR in election monitoring and reaffirmed the participating States’ willingness to invite election observers. Noteworthy here was the voluntary commitment “to follow up promptly the ODIHR’s election assessment and recommendations”.¹¹

There are no further specific commitments related to election monitoring. Instead ODIHR is merely called upon to perform tasks such as co-ordinating international election observation or assessing the freedom and independence of media.¹² Comprehensive tasks regarding ODIHR’s approaches and details of its observation methodology are contained in the Brussels Decision on Strengthening the Effectiveness of the OSCE.

This methodology, which has been challenged by Russia and others since 2004, was not determined by the participating States. In Budapest in 1994, they left it up to ODIHR, simply calling for it to “devise a handbook for election monitors and set up a rolling calendar for upcoming elections”.¹³

Interpretive Commitments on Elections and Election Monitoring

In terms of international law, the basis of ODIHR’s approach to elections and election monitoring is found in the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (ICCPR;

7 Organization for Security and Co-operation in Europe, *Charter of Paris for a New Europe*, Paris 1990, in: *ibid.*, pp. 537-566, here: pp. 549-555.

8 “The Ministers decided to give additional functions to the Office for Free Elections which will henceforth be called the Office for Democratic Institutions and Human Rights.” Prague Document on Further Development of CSCE Institutions and Structures, in: Second Meeting of the Council, Prague, 30-31 January 1992, in: *ibid.* pp. 830-838, here: p. 831.

9 See CSCE, Fourth Meeting of the Council, Rome, 30 November – 1 December 1993, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Basic Documents, 1993-1995*, Dordrecht 1997, pp. 192-214, here: p. 203.

10 *Budapest Document 1994*, Budapest, 6 December 1994, in: *ibid.* pp. 145-189, here: p. 177.

11 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.

12 See *Budapest Document*, cited above (Note 10), pp. 176-177.

13 *Ibid.*, p. 177.

1966), and the General Comment of the UN Human Rights Committee on Article 25 of this pact (1996).¹⁴ ODIHR assumes that these documents have contributed to “a global consensus in support of democracy [that] emerged in the 1990s”¹⁵ and that this has given rise to obligations for the OSCE participating States as members of the United Nations with regard to democratic elections.¹⁶

ODIHR has drawn up an inventory that brings these UN obligations, relevant documents of the Council of Europe (CoE), the Parliamentary Assembly of the Council of Europe (PACE), the European Commission for Democracy through Law (Venice Commission), and rulings of the European Court of Human Rights (ECtHR) together with the commitments of OSCE participating States.¹⁷ As an independent OSCE institution, ODIHR (i.e. not the OSCE itself) also signed up to the 2005 Declaration of Principles for International Election Observation.¹⁸

Building on this, ODIHR has created, published, and implemented its own interpretive election monitoring standards in over 100 observation missions with the help of over 30,000 observers (as of November 2006).¹⁹ In this way, it established *actually practised interpretive standards*.

Additional Election-Related Commitments (“Copenhagen Plus”)

The intention of entering into additional commitments in the area of elections was set down in the Porto and Maastricht Ministerial Council Decisions and by 2006 had been debated several times. These debates took place in the broader context of efforts to supplement the OSCE’s human dimension commitments and seeking to bring about a “Copenhagen Plus”. During the

14 Human Rights Committee, *General Comment No. 25: The right to participate in public affairs, voting rights and the right of equal access to public service*, CCPR/C/21/Rev.1/Add.7 (1996).

15 OSCE/ODIHR, *Existing Commitments for Democratic Elections in OSCE Participating States*, ODIHR.GAL/39/03, Warsaw, October 2003, p. 7, available online at: http://www.osce.org/publications/odihr/2003/10/12345_127_en.pdf.

16 “All OSCE participating States are members of the United Nations, and are therefore subject to the provisions of the Universal Declaration of Human Rights as well to other UN General Assembly resolutions and documents pertaining to democracy, democratic elections, and human rights.” Ibid., p. 11, footnote 11.

17 *Existing Commitments for Democratic Elections in OSCE Participating States*, cited above (Note 15). Among the justifications ODIHR gave for drawing up this document was a call made by the Russian delegation at the Ministerial Council meeting in Bucharest in 2000. See: *ibid.* Executive Summary.

18 *Declaration of Principles for International Election Observation*, CIO.GAL/169/05, New York, 27 October 2005, available online at: http://www.accessdemocracy.org/files/1923_declaration_102705.pdf. The Declaration was signed by more than 20 international institutions, organizations, and NGOs, including ODIHR, the European Commission, and the UN.

19 Cf. OSCE ODIHR, *Common Responsibility. Commitments and Implementation. Report submitted to the OSCE Ministerial Council in response to MC Decision No. 17/05 on Strengthening the Effectiveness of the OSCE*, Warsaw, 10 November 2006, p. 33, section 96, available online at: http://www.osce.org/publications/odihr/2006/11/22321_761_en.pdf.

Slovenian Chairmanship (2005), in particular, this question was given special attention, and a Supplementary Human Dimension Meeting and an expert meeting were held on the topic, though without success. The draft decisions tabled by the Slovenian (2005) and Belgian (2006) Chairmanships for the Ljubljana and Brussels Ministerial Council Decisions on Strengthening the Effectiveness of the OSCE²⁰ included supplementary commitments. However, this did nothing more than keep the topic on the agenda. The delegations are generally sceptical towards new commitments and prefer to stress the necessity of continuing the implementation of existing commitments.

Nonetheless, it seems advisable to keep in view the proposals concisely summarized by ODIHR in its note on “Possible Additional Commitments”.²¹ They were divided into the three categories – transparency, accountability, and public confidence – are conceived in great technical detail, and well suited for discussion at expert level.

In a report entitled “Common Responsibility”, ODIHR looked closely at the further development of election-related activities and identified relevant lines of work it should pursue. These need not necessarily be based on additional commitments. Among other things, they concern follow-up mechanisms for the implementation of recommendations given in the election reports, the geographical scope of election-related activities, recruitment issues and creating a network of experts, public outreach and training, the use of information technology, linguistic inclusiveness, and co-operation with parliamentary observers and other organizations.²²

ODIHR's Methodology

The observation formats, criteria, timeframes, personnel policies, reporting standards, and so on developed by ODIHR together form the methodology that is disputed by critical participating States around Russia. Its basis is the above-mentioned norm-creating and practice-influencing work carried out by ODIHR. The methodology throws light on the entire electoral process, from the relevant legislation to the announcement of results, as well as complaints and appeal procedures, systematically commenting on them and influencing them before a national and international public.²³

20 MC.DEC/17/05, 6 December 2005, and MC.DEC/19/06, 5 December 2006.

21 OSCE Office for Democratic Institutions and Human Rights, OSCE/ODIHR Explanatory Note on Possible Additional Commitments for Democratic Elections, 11 October 2005, Annex 1 of *Common Responsibility*, cited above (Note 19), pp. 83-90.

22 Cf. *Common Responsibility*, cited above (Note 19), pp. 49-55.

23 For a detailed description see *ibid.*, especially pp. 35-49.

Over the years, ODIHR has built up its own election-monitoring infrastructure. Its personnel resources include the Elections Department in Warsaw with nominally 15.5 full-time positions according to the 2009 budget. The Elections Department has also built up a personnel pool of heads of mission and core team members and can deploy the long- and short-term observers seconded by the participating States. In several field presences, it can also rely on the support of the 17 individuals directly responsible for election observation. The Elections Department had a budget of 6,555,000 euros in 2009.²⁴ The following sections go into the methodology of ODIHR's election observation activities in more detail.

The Selection Criteria: A Non-Democratic Past

ODIHR focused its election observation missions on post-communist transition countries from the start. The criterion it has used to select where to send election observation missions is the difference between OSCE participating States "emerging from a non-democratic past" and "longer-established democracies".²⁵ In support of this approach, it can be noted that ODIHR is not only applying the principle of the 1991 Moscow Document that human dimension commitments "do not belong exclusively to the internal affairs of the State concerned" but that, as a security institution, it will step in to protect a "justly established constitutional order" and "a legitimately elected government of a participating State", both of which are also protected by the Moscow Document, when these are in danger of being overthrown.²⁶ Of course, this is no longer always the view taken in affected countries. That there is no need for ODIHR to play the role of referee is the opposing view taken by the critics.

In response to accusations of geographical one-sidedness in its election monitoring activities, ODIHR has for a while now observed elections in Western participating States, including Belgium, Canada, France, Germany, Ireland, Italy, the Netherlands, Spain, Switzerland, the UK, and the USA, albeit on a smaller scale (as needs assessment missions or election assessment missions) and with less public exposure. Under the leadership of a Russian specialist, ODIHR deployed an expert group on the eve of the 2009 European parliamentary elections to assess electoral legislation and processes in 15 EU

24 Details of personnel and budgets in this section are derived from: Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 888, Approval of the 2009 Unified Budget*, PC.DEC/888, 2 April 2009.

25 ODIHR, *Election Observation. A decade of monitoring elections: the people and the practice*, Warsaw 2005, p. 9, available online at: http://www.osce.org/publications/odihr/2005/11/17148_478_en.pdf.

26 Organization for Security and Co-operation in Europe, Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991, in: Bloed (ed.), cited above (Note 6), pp. 605-629, here: p. 606 and 612, paras 17.1 and 17.2.

member states. The argument that ODIHR has occasionally made in the past, according to which it has neither the financial resources nor the personnel to carry out election observations in every participating State, is barely credible. It would certainly be possible not only to carry out fully fledged election observation missions in selected Western countries, if this should appear necessary, but also to reduce the scope of observation activities in the East as a consequence of positive reports.

It should also be noted that problems exist that have nothing to do with whether a state has a non-democratic past or is an established democracy and whose assessment is highly problematic for ODIHR. These include country-specific traditions and customs such as voter activation (e.g. busing to polling stations), imperative mandates (i.e. the requirement to vote along party lines), the lack of public-service broadcasting media, domestic media freedom, and the height of election thresholds. This also encompasses phenomena present in Western participating States, such as party financing and evidence of donations, the non-transparent modification of electoral boundaries, the drawing up of party candidate lists by the party leadership, the running of elections by party representatives, disenfranchisement (e.g. of criminals or former criminals), and the presence of challengers at polling stations. These questions relate to the political culture of individual participating States and are not covered by original OSCE commitments. This is where the argument made by one Western delegation applies: that there are things that cannot be universally regulated but which can and should nonetheless be discussed.

Observation Formats

The range of formats for observation developed by ODIHR encompasses preparatory needs assessment missions and exploratory missions as well as – above all – election observation missions, limited election observation missions with no short-term observers as in Latvia in 2006, election assessment missions with few staff and short duration, which have been deployed in Western countries since 2002, and election support missions, such as the one sent to Turkmenistan to support the OSCE Centre there. There are also the election support teams (preceded by an advance team) as in Afghanistan (an OSCE Partner for Co-operation) in 2004, 2005, and 2009, where the goal was not election observation but providing organizational support and advice in the preparation and execution of elections. ODIHR decides upon the details of these missions, such as staff numbers and composition, the duration of the observers' stay in a country, and the specific tasks to be performed (observation, assessment, support), according to its own needs assessment, agreeing some of the details with the host country. ODIHR also briefs its election observers.

Reporting

ODIHR's election observation activities result in reports ranging from needs assessment mission reports, via pre-election interim reports, to preliminary post-election statements and statements of preliminary findings and conclusions, and ultimately to final reports. As in the case of Georgia (January 2008), supplementary reports may also be issued adding important additional information to preliminary post-election statements. Public and media attention, however, are almost always focused on the preliminary post-election statement that is issued immediately after the election, which contains the preliminary conclusions that are often seen as providing a set of "grades". Of interest here are the nuances of the formulas used in the one or two sentences on the overall course of the elections. Comparison of these statements with those on previous elections or elections in other participating States gives them their particular political weighting.

Documentation

ODIHR set down the methodology of its election observation in a handbook for the first time in 1996, and it has been updated regularly ever since (most recently in 2007). The most important aspects are contained in the following documents:

1. Election Observation Handbook
2. Handbook for Long-Term Election Observers
3. Existing Commitments for Democratic Elections in OSCE Participating States
4. Resolving Election Disputes in the OSCE Area: Towards a Standard Election Dispute Monitoring System
5. Guidelines to Assist National Minority Participation in the Electoral Process
6. Guidelines for Reviewing a Legal Framework for Elections
7. Election Observation – A decade of monitoring elections: the people and the practice
8. Handbook for Domestic Election Observers
9. Handbook for Monitoring Women's Participation in Elections
10. International Standards and Commitments on the Right to Democratic Elections: A Practical Reference Guide to Democratic Elections Best Practice (Draft, November 2002)²⁷
11. Election Principles and Existing OSCE Commitments for Democratic Elections (Discussion Paper, July 2004)

27 ODIHR.GAL/44/02/Rev.1.

12. Declaration of Principles for International Election Observation (October 2005)
13. Common Responsibility. Commitments and Implementation. Report submitted to the OSCE Ministerial Council in response to MC Decision No. 17/05 on Strengthening the Effectiveness of the OSCE (November 2006)

ODIHR's basic understanding of the commitments under discussion here and their implementation is given in detail in "Common Responsibility".²⁸ Further details may be found in the many final reports, consolidated summaries, and other documents.

ODIHR has created election observation standards in theory and practice that are unique in the world and have been adopted as a template by other international organizations. The European Union, for instance, drew up its own election observation methodology with explicit reference to that of ODIHR.²⁹ It has been reported that even the election observation carried out by the CIS draws in some respects upon ODIHR's technical and organizational experience, despite the fact that the conclusions the CIS observers reach are at times very different from ODIHR's.

The Independence of ODIHR as an Observer

ODIHR's political independence as an election observer has been one of the controversial elements of election monitoring in recent years. Yet a number of OSCE documents provide a firm basis for this independence and task ODIHR with carrying out independent election observation.

The authorization for ODIHR to carry out election observation is based on the agreement to establish institutionalized election observation in the sovereign participating States in the 1990 Copenhagen Document³⁰ and the declarations that "monitoring and promoting progress in the human dimension remains a key function of the CSCE"³¹ and that ODIHR is "the main institution of the Human Dimension",³² as well as on the election-related commitments detailed above. At the level of decisions, ODIHR's particular prominence and independence with regard to the participating States is a re-

28 See *Common Responsibility*, cited above (Note 19), pp. 1-25.

29 "The [EU election observation] methodology [...] has been particularly enriched by the [...] election observation methodology, outlined in the OSCE Office for Democratic Institutions and Human Rights (ODIHR) Election Observation Handbook." *Handbook for European Union Election Observation Missions*, Swedish International Development Cooperation Agency (SIDA), Stockholm 2002, p. 3.

30 "The Copenhagen Document was the first political agreement among sovereign states to institutionalize election observation by extending a standing invitation for OSCE states to observe each other's electoral proceedings." *Election Observation*, cited above (Note 25), p. 2.

31 *Prague Document*, cited above (Note 8), p. 831.

32 CSCE Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, in: Bloed (ed.), cited above (Note 6), pp. 701-777, here: p. 744.

sult above all of the Istanbul Document 1999, in which the participating States committed themselves, as already mentioned, “to follow up promptly the ODIHR’s election assessment and recommendations”.³³ This was later weakened at Porto 2002 and Maastricht 2003.³⁴ In 2005, the OSCE’s Panel of Eminent Persons recommended that the OSCE’s institutions should retain their “ability to make independent evaluations and take programmatic initiatives in accordance with their respective mandates”.³⁵ This call was repeated in Brussels.³⁶

ODIHR has constantly defended its own institutional independence. However, according to the OSCE Rules of Procedure, it is not a decision-making body, but an executive structure or OSCE institution.³⁷ At the heart of its argument is a reference to the need for election observation to be politically and operationally independent, and hence to the need for ODIHR to be an impartial election observer. ODIHR here makes reference to the Declaration of Principles for International Election Observation, as mentioned above: “International election observation missions should [...] independently and impartially evaluate [information concerning the integrity of the election process ...]” and they “must be of sufficient size to determine independently and impartially the character of election processes in a country”.³⁸ This approach may have been called into question on occasion, but its legit-

33 *Charter for European Security*, cited above (Note 11), p. 433.

34 The relevant passages are as follows: “The Ministerial Council [...] calls upon participating States to strengthen their response to the ODIHR’s recommendations following election observations”, Decision No. 7, Election Commitments, MC(19).DEC/7, in: Organization for Security and Co-operation in Europe, Tenth Meeting of the Ministerial Council, Porto, 6 and 7 December 2002, reprinted in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 421-455, pp. 451-452, here: p. 452; and “The Ministerial Council [...] calls upon participating States to further enhance their co-operation with the ODIHR in this field”, Decision No. 5/03, Elections, MC.DEC/5/03, in: Organization for Security and Co-operation in Europe, *Eleventh Meeting of the Ministerial Council*, 1 and 2 December 2003, Maastricht 2003, MC.DOC/1/03, 2 December 2003, p. 81.

35 Common Purpose. Towards a More Effective OSCE. Final Report and Recommendations of the Panel of Eminent Persons On Strengthening the Effectiveness of the OSCE, 27 June 2005, reprinted in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2005*, Baden-Baden 2006, pp. 359-379, here: p. 363.

36 The Brussels Ministerial Council agreed “to give utmost attention to the independence, impartiality and professionalism of ODIHR’s election observation”, Decision No. 19/06, Strengthening the Effectiveness of the OSCE, MC.DEC/19/06, 5 December 2006, in: Organization for Security and Co-operation in Europe, *Fourteenth Meeting of the Ministerial Council*, 4 and 5 December 2006, Brussels 2006, 5 December 2006, pp. 58-62, here: p. 61.

37 Cf. Rules of Procedure of the Organization for Security and Co-operation in Europe, MC.DOC/1/06, 1 November 2006, reprinted in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2007*, Baden-Baden 2008, pp. 355-376, here: pp. 355-356. Also according to the Rules of Procedure: “Representatives of [...] executive structures [...] shall not participate in the drafting of documents”, though they “may comment on drafts that directly concern them, at the invitation of the Chairperson”, *ibid.*, p. 363.

38 *Declaration of Principles for International Election Observation*, cited above (Note 18), pp. 6 and 7.

imacy has also regularly been confirmed. In order to do this, ODIHR has summarized its observation methodology at regular intervals in the documents cited, submitting them via the Permanent Council to the participating States, thereby including them in the OSCE decision-making process. It believes that its independence and impartiality are supported by the vast majority of participating States.³⁹

Relations with the Parliamentary Assembly

In the shape of ODIHR and the Parliamentary Assembly, the OSCE possesses two independent electoral observers. They have close contacts in their election observation work, but operate according to different basic approaches and personnel policies. The fact that the decisions establishing the two do not provide for structural interconnectedness between them makes their co-ordination, which is absolutely necessary, more difficult. However, it cannot be bindingly established by the decision-making bodies of the OSCE or the Chairman-in-Office. While both rank higher than ODIHR in the OSCE hierarchy or are supposed to receive the latter's support,⁴⁰ the Parliamentary Assembly was established not only to act independently (as does ODIHR), but also largely outside of OSCE structures.⁴¹ The overall effect of this has been to create the well known competition between these two institutions and a polemical battle that has not yet reached its conclusion.

Criticism of OSCE Election Observation

Election observation initially presented a challenge to both Western and Eastern participating States. The presence of foreign observers at one of the key domestic political processes in a country, and the assessment of the election before the eyes of the world were often perceived as burdensome. Even a number of Western participating States had to pass legislation enabling international election observation for the first time.

Discussion of OSCE election observation has been most intense since the caesura of 2003/2004, which came about, as mentioned at the start of this contribution, in relation to the Russian parliamentary elections and the so-called colour revolutions. In 2003, Russia and other CIS members made their

39 While ODIHR and OSCE Parliamentary Assembly election monitoring "has only recently been criticized by a few, it is recognized by the large majority of participating States as professional and independent". *Common Responsibility*, cited above (Note 19), p. 34.

40 Cf. *Rules of Procedure*, cited above (Note 37), p. 356, para. 13, and p. 359, para. 3.

41 Although the Heads of State or Government of the CSCE states agreed to establish a parliamentary assembly in the Charter of Paris 1990, it was actually founded in Madrid in 1991 by the parliamentary delegations of the participating States (but not by the CSCE). Cf. *Charter of Paris*, cited above (Note 7), p. 549, and *Madrid Document, Final Resolution Concerning the Establishment of the CSCE Parliamentary Assembly Agreed at Madrid*, 2 and 3 April 1991.

first strongly worded written criticisms of the OSCE's interference in their internal affairs, while also generally criticizing the Organization's field activities.⁴² With regard specifically to election observation activities that have not yet been mentioned here, between 2004 and 2007, some ten position papers were produced by Russia together with varying combinations of Armenia, Belarus, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan, in particular:⁴³

1. Draft Permanent Council Decision on Further Improvement of OSCE Election Standards and Election Monitoring (2004)
2. Food-for-thought paper on OSCE Election Standards and Election Monitoring (2004)
3. Draft proposal for a Ministerial Council Decision on OSCE Election Standards and Election Monitoring (2004)
4. Food-for-thought paper on Further Development of Election Monitoring and Assessment (2005)
5. Draft Decision on Elections (2005)
6. Proposal for a Ministerial Council Decision on Strengthening and Furthering Election-Related Activities of the OSCE (2006)
7. Questionnaire on OSCE/ODIHR activities in the field of election monitoring and assessment (2006)
8. Food-for-thought paper on Basic Principles for the Organization of OSCE Observation of National Elections (2007)
9. Draft Decision on OSCE/ODIHR Observation of National Elections (2007)

Since 2005, these statements have become noticeably more systematic. A draft decision has also been presented to the Ministerial Council each year since 2005. The food-for-thought paper on "Basic Principles" represented the most comprehensive statement of Russia's views, and was later incorporated in the draft decision on "OSCE/ODIHR Observation of National Elections" for the Madrid Ministerial Council and signed by seven participating States (Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, and Uzbekistan). These states are also the members of the Collective Security Treaty Organization (CSTO). The five core demands of these documents are summed up below:

1. Centralization and transfer of responsibilities to the Permanent Council (adoption of annual election observation programme and budget, and of unified mandates and structures for all missions; annual candidate lists

42 See the Food-for-Thought Paper by Belarus, Kazakhstan, Kyrgyzstan, and Russia, *On the Issue of Reform of the OSCE Field Activities*, 4 September 2003, PC.DEL/986/03.

43 See PC.DEL/1225/04/Corr.1, PC.DEL/1022/04, PC.DEL/1023/04, PC.DEL/1184/05, PC.DEL/1218/05, PC.DEL/1157/06, PC.DEL/703/06, PC.DEL/458/07, PC.DEL/898/07.

- for heads of missions and their appointment to be subject to approval; receipt of election observation reports)⁴⁴
2. Reduction of ODIHR's function to the provision of "expert assistance" and establishment of measures to make ODIHR accountable to the Permanent Council⁴⁵
 3. Renegotiation of the election observation methodology by the Permanent Council (to "review and adopt [...] the regulative basis for activities of the ODIHR in the area of elections" and to "elaborate and adopt [...] Rules of Organizing ODIHR Observation of National Elections")⁴⁶
 4. Creation of transparency in decisions on recruitment, annual planning, the selection of target countries, the format, length, and composition of missions, the acquisition of funds, and reporting⁴⁷
 5. Putting an end to the focus of election observation on the transition states of Eastern Europe ("develop the geographic balance"; "without division into different categories")⁴⁸

On the whole, little effort was made to adhere to these demands consistently. On this question, as on others, the position of Russia and its partners was conspicuously inconsistent. This gives the impression that many of the demands listed above are no longer relevant. In the view of analysts, the effort's real thrust was to restrict ODIHR's election monitoring activities as a whole.

Since 2004, as the documents show, the Russian argument has been roughly as follows: As stated in the first draft decision produced for Sofia 2004, democratic elections are fundamental for the sustainable development of every democratic society. There are, however, no generally recognized standards for democratic elections in the OSCE, but rather merely general principles and commitments, based on the Copenhagen Document and other OSCE decisions. Nor are fundamental principles such as universality, trust, transparency, and accountability exhaustively defined in these decisions. The assessment of elections by the OSCE therefore tends to be subjective. The enforcement of election-related commitments needs to remain the responsibility of the participating States. Furthermore, election observation by the OSCE requires, first, a comparison of electoral legislation and electoral practices in all the participating States, and, second, the compilation of reliable assessment criteria. Criteria for determining the format of each mission are likewise necessary. In general, election observation should aim to demonstrate the compliance of electoral processes with national legislation and to

44 Cf. PC.DEL/458/07, cited above (Note 43), items 2-5, 8.

45 Cf. PC.DEL/458/07, cited above (Note 43), item 2.

46 PC.DEL/1157/06, cited above (Note 43), item 3, and PC.DEL/898/07, cited above (Note 43), item 3, respectively.

47 Cf. PC.DEL/1184/05, PC.DEL/1157/06, PC.DEL/1157/06, and PC.DEL/458/07, cited above (Note 43).

48 PC.DEL/1157/06, cited above (Note 43), item 1.1c, and PC.DEL/458/07, cited above (Note 43), item 1, respectively.

make recommendations in accordance with relevant OSCE commitments. Post-election follow-up activities should be carried out together with the host country. Relevant basic principles should be standardized by the Permanent Council and adopted as “Basic Principles for the Organization of ODIHR Observation of National Elections”, which would also govern the mandate and composition of missions and the procedure of preparing and publishing mission reports.

The demands made by Russia in the circulated papers ranged from personnel matters (creation of a pool of personnel to be filled by the participating States and appointment of heads of election missions by the Chairman-in-Office from this pool; composition of missions to be more geographically diverse) via planning issues (integration of election observation in the OSCE’s annual planning and budget) to rules of conduct for observers (refraining from influencing elections and making statements before the official announcement of results). Finally, there were additional demands on specific issues such as linguistic usage and observer training. ODIHR has gone into many of these ideas in great detail without allowing its institutional independence to be compromised.

Russia’s attempts to exert a direct influence on key criteria such as the scope and composition of missions and definitively to prescribe to ODIHR elements such as the duration of missions reached their climax in 2007 and 2008. This ultimately led ODIHR to stay away from the Russian parliamentary and presidential elections held in these years, and, to the detriment of Russia’s political leaders, prevented the election results from receiving the international seal of approval in the court of global public opinion.

At the same time, it must be noted that the group of participating States around Russia who are critical of observation have not excluded themselves from the discussion of election observation within the OSCE, but have actively contributed a large number of recommendations to it. The supporters of Russia’s initiatives have also worked constructively with ODIHR’s various election observation missions.

In addition, Russia has not only engaged with the topic in a rhetorical sense, but has taken practical steps, both within and outside the OSCE. The intentions that lie behind these activities can of course each be evaluated on its own merits. They demonstrate, on the one hand, greater involvement on the part of Russia in established electoral observation activities, and, on the other, the desire for diversified co-operation with several international organizations and not predominately with the OSCE, as well as, ultimately, a wish for OSCE-led independent election observation to be supplemented or eventually replaced by other formats, ones which at bottom have political conditions attached to them.

After 2004, Russia contributed an increased number of observers to ODIHR missions and organized the deployment of home-grown civil-society election observers in Russia. Election monitoring activities were also devel-

oped in parallel in the CIS framework. The CIS adopted its own election convention as early as 2002, which dealt with topics including the role of civil society and international observers in detail.⁴⁹ The participation of observer missions from the Interparliamentary Assembly of the CIS, a regulation governing which was passed in 2004, has also become part of the elections business in the CIS area.⁵⁰ In addition, Russia has continued to work to secure the involvement of other international organizations, such as the CSTO, the Shanghai Cooperation Organisation (SCO), the Parliamentary Assembly of the Council of Europe (PACE), and the Organisation of the Islamic Conference (OIC).

Activities and Approaches of the Chairmanships since 2005

Since the dispute arose in the years 2003-2004, the topic of election observation has been dealt with by every Chairmanship of the OSCE. Above all, during the Finnish Chairmanship in 2008, it proved possible, at least temporarily, to take the edge off the discussions of election observation activities.

The 2005 Slovenian Chairmanship: Mediation

One task that fell to the 2005 Slovenian Chairmanship was to co-ordinate discussion of OSCE reform. Slovenia's job was to relate aspects of this discussion to the positions of the delegations, the activities and recommendations of the Panel of Eminent Persons,⁵¹ and the statements made by ODIHR. The Slovenian Chairmanship also took up the issue of elections in its own right, making several contributions, including most prominently a non-paper "On the Challenges of Election Technologies and Procedures", in which it called for the elaboration of a "Copenhagen Plus Document" and relevant

49 See Konventsia o standartakh demokraticheskikh vyborov, izbiratelnykh prav i svobod v gosudarstvakh-uchastnikakh Sodruzhestva Nezavisimyykh Gosudarstv [Convention on the Standards of Democratic Elections, Voting Rights and Freedoms in the Participating States of the Commonwealth of Independent States], October 2002, Articles 10 2(d); 14 and 15, available online at: <http://cis.minsk.by/main.aspx?uid=616>.

50 See Polozhenie o Missii nablyudatelei ot SNG na prezidentskikh i parlamentskikh vyborakh a takzhe referendumakh v gosudarstvakh-uchastnikakh Sodruzhestva Nezavisimyykh Gosudarstv [Regulation on CIS Observer Missions to Presidential and Parliamentary Elections and Referenda in the Participating States of the Commonwealth of Independent States], 26 March 2004, available online at: <http://www.cis.minsk.by/main.aspx?uid=2016>.

51 In 2005, the Panel of Eminent Persons took a rather cautious position on the discussions. Its references to "election monitoring standards based on experience acquired", the necessity of following up recommendations, and the equal treatment of the participating States addressed both the demands of ODIHR and those of Russia and the participating States aligned with it. At the same time, it recommended the elaboration of new commitments, as others had already done in different places; cf. *Common Purpose*, cited above (Note 35), pp. 362, 365, and 368.

follow-up mechanisms.⁵² During 2005, a special Supplementary Human Dimension Meeting on “Challenges of Election Technologies and Procedures” and an expert meeting dedicated to the three areas of new election technologies, election-related commitments, and election observation were held. Among the many decisions passed at Ljubljana, election observation was included in the one on strengthening the effectiveness of the OSCE as a task proper to ODIHR.⁵³

The 2006 Belgian Chairmanship: Analysis

The 2006 Belgian Chairman-in-Office astonished the delegations above all with his announcement that “monitors of the monitors” would be deployed.⁵⁴ The background to this was the critical discussion between ODIHR and the OSCE Parliamentary Assembly on election observation. Ultimately, this initiative led to the publication of an analysis paper⁵⁵ containing a variety of suggestions. More detailed considerations of election observation were made again in the Brussels Decision on Strengthening the Effectiveness of the OSCE.⁵⁶

The 2007 Spanish Chairmanship: Failed Resolution

The Brussels Decision on Strengthening the Effectiveness of the OSCE tasked the 2007 Spanish Chairmanship with arranging for the Permanent Council to draft a statement on the new commitments proposed in the ODIHR “Common Responsibility” report of 10 November 2006 to be ready by the Madrid Ministerial Council.⁵⁷ However, a statement was not adopted. Instead, the Chairmanship initiated discussions, above all in the Human Dimension Committee and the other formats of the human dimension.⁵⁸ A dedicated Committee meeting was held in May 2007. In those discussions, the various positions were once more reiterated.

It did not prove possible to adopt a Ministerial Decision on election observation. Drafts of one were provided by the EU states, the group of states

52 See Slovenian Chairmanship, non-paper *On the Challenges of Election Technologies and Procedures*, CIO.GAL/64/05, 9 May 2005.

53 See *Decision No. 17/05, Strengthening the Effectiveness of the OSCE*, MC.DEC/17/05, 6 December 2005, in: Organization on Security and Co-operation in Europe, Thirteenth Meeting of the Ministerial Council, 5 and 6 December, Ljubljana, 6 December 2005, pp. 57-60, here: section 2, pp. 58-59.

54 See Karel De Gucht, *Address by the OSCE Chairman-in-Office*, OSCE PA, Report on the Fifth Annual Winter Meeting, Vienna, 23-24 February 2006, p. 5.

55 See François-Xavier de Donnea/Jan Petersen, Personal Envoys of the Chairman-in-Office of the OSCE, *Mechanisms for Election Observation*, 16 November 2006.

56 Cf. *Decision No. 19/06, Strengthening the Effectiveness of the OSCE*, cited above (Note 36), pp. 60-61.

57 Cf. *ibid.*, p. 60.

58 See, for example, *OSCE Human Dimension Seminar: Effective Participation and Representation in Democratic Societies*, Consolidated Summary, Warsaw, 16-18 May 2007.

around Russia, and finally by Spain.⁵⁹ Towards the end of its Chairmanship, Spain formally passed the issue on to its successor, suggesting further consideration in the Human Dimension Committee.⁶⁰

The 2008 Finnish Chairmanship: Mediation and Structured Dialogue

The Finnish Chairmanship wanted to see the discussion of election observation take a constructive turn once again and saw himself as a suitable mediator in this regard. He considered dialogue to be a necessary confidence-building measure and had declared himself to be open to discussion of any and all critical as well as supportive viewpoints on commitments, best practices, methodology, and follow-up. A “structured dialogue on election-related issues” was one of the Finnish Chairmanship’s priorities.⁶¹ It initially suggested three discussion formats that could help to bring this about: informal retreats at ambassadorial level, discussions in the Human Dimension Committee, or a “senior expert seminar”, the latter a “Chairmanship event in cooperation with ODIHR”.⁶² As mentioned above, this event, held in Vienna on 21 and 22 July 2008, took the form of an OSCE Chairmanship seminar on election-related issues. The intention was to re-establish a positive context for election observation.⁶³ This was achieved.

It is to the great credit of the Finnish Chairmanship that, in a politically sensitive situation, he was able to remove the openly confrontational tone from the discussion of election observation and thus play a decisive role in making the continuation of ODIHR’s observation activities possible. The generally constructive atmosphere was not even weakened by a draft decision tabled by Russia and Belarus shortly before the Ministerial Council Meeting in Helsinki, which, among other things, suggested a renewed discussion of the basic principles for the organization of election observation by ODIHR and the OSCE Parliamentary Assembly.⁶⁴ This proposal failed to gain support in Helsinki. Election observation missions have continued to take place since then, including in participating States that are critical to them.

59 See MC.DD/23/07, MC.DD/24/07, and MC.DD/29/07, respectively.

60 See Spanish Chairman-in-Office, *Food-For-Thought On Implementation of Existing Commitments*, CIO.GAL/185/07, 12 December 2007.

61 “The Finnish Chairmanship is convinced that continued dialogue on election-related issues among the participating States, with the involvement of the OSCE Parliamentary Assembly, is essential [...] In this respect, the Chairmanship plans to conduct a structured dialogue on election-related issues, including the involvement of international organizations, parliamentary assemblies, and NGOs.” Statement of Finnish Secretary of State Teija Tiilikainen, in: *Finnish Chairmanship discusses 2008 priorities with OSCE parliamentarians*, Press Release, SEC.PR/55/08, 21 February 2008.

62 Cf. Finnish Chairman-in-Office, *Way forward in conducting a dialogue on election related issues* (Non-Paper), CIO.GAL/31/08, 13 February 2008.

63 Cf. *ibid.*

64 Cf. PC.DEL/1043/08.

The 2009 Greek Chairmanship: Ongoing Discussions

The Greek Chairmanship welcomed the ongoing dialogue on elections and election observation and spoke in favour of discussing the following sub-topics: implementing ODIHR's recommendations, the financing of electoral campaigns, voter registration, and the possibility of assuming new commitments.⁶⁵ It also called urgently on ODIHR and the Parliamentary Assembly to work together in election observation to safeguard the credibility of the Organization.⁶⁶ Under the Greek Chairmanship, a Chairmanship expert seminar on electoral management bodies was held in Vienna on 16-17 July 2009. There were no further decisions on election-related issues adopted at the Athens Ministerial Council.

The 2010 Kazakh Chairmanship: Expectations of Continued Dialogue

Many expectations are tied up with Kazakhstan's Chairmanship of the OSCE in 2010. It is no secret that the country has multiple orientations, both globally and regionally.⁶⁷ By applying for the OSCE Chairmanship, the Kazakh leadership indicated a certain openness to the West. That is one of the essential aspects of its current modernization efforts. It is also typical of the way Kazakhstan has dealt with Western criticism, much of which emerged in the course of election monitoring. At the same time, it continues to uphold national traditions conditioned by authoritarianism. Democratic governance and the rule of law are both anchored in the Kazakh constitution.⁶⁸

Since the end of the 1990s, Kazakhstan has repeatedly been criticized for its political and electoral systems. Kazakhstan's experiences with ODIHR are multilayered. ODIHR's election reports on the country are always formulated in critical language, although they have never failed to record progress made. They generally contain an expression such as: "The election process fell short of OSCE commitments and other international standards."⁶⁹

65 Cf. Permanent Mission of Greece to the OSCE, *Analytical Concept Paper on the Programme of the Greek OSCE Chairmanship 2009, The Future of the OSCE viewed as Thesis and Antithesis in Harmony*, CIO.GAL/2/09/Rev.1, 16 January 2009.

66 Cf. Permanent Mission of Greece to the OSCE, *Greek OSCE Chairmanship 2009*, Non-Paper, CIO.GAL/4/09, 16 January 2009.

67 "We shall advance to strengthening of our relationships with Russia, China, Central Asian neighbours, Islamic states and Western countries." *Strategy 2030: Prosperity, Security and Ever-Growing Welfare of all the Kazakhstanis, Message of the President of the country to the people of Kazakhstan*, available online at: http://www.akorda.kz/www/_akorda_kz.nsf/sections?OpenForm&id_doc=DD8E076B91B9CB66462572340019E60B&lang=en&L1=L1&L2=L1-10.

68 Cf. *Constitution of the Republic of Kazakhstan*, Article 1, available online at: http://www.akorda.kz/www/_akorda_kz.nsf/sections?OpenForm&id_doc=DB26C3FF70789C84462572340019E60A&lang=en&L1=L1&L2=L1-9.

69 OSCE/ODIHR, *Final Report on the Parliamentary Elections in Kazakhstan, 19 September and 3 October 2004*, Warsaw, 15 December 2004; see also *Final Report on the Parliamentary Elections in Kazakhstan, 10 and 24 October 1999*, Warsaw, 20 January 2000, *Final Report on the Presidential Election in Kazakhstan, 10 January 1999*, 5 February

Kazakhstan reacted to this in various ways. It signed five of the six papers circulated by Russia. The exception was the draft decision prepared for the 2005 Ministerial Council.⁷⁰ Following the Russian presidential election of 2 March 2008, Kazakhstan announced in Vienna that the Shanghai Cooperation Organisation (SCO), under the leadership of its (Kazakh) Secretary-General, Bolat Nurgaliyev, had taken part in an international election observation mission. Contrary to the Western assessment, “the SCO mission found the presidential elections in Russia were legitimate, free, open and transparent. The mission observed no infringements, law violation and actions that would question the legitimacy of the presidential election in Russia. [...] Russian legislation meets all generally-recognized world standards and provides all conditions and opportunities for people to exercise their civic right freely.”⁷¹

On the other hand, open discussions of election procedures were always at the centre of Kazakhstan’s application for the OSCE Chairmanship. President Nursultan Nazarbayev’s personal efforts to secure Kazakhstan the Chairmanship gave a similarly prominent position to Kazakhstan’s discussions with ODIHR. More than any other participating State before, Kazakhstan sent high-level representatives to face up to its critics at home and in Vienna. At the Ministerial Council Meeting in Madrid, then Foreign Minister Marat Tazhin stated that his country considered the human dimension to be “the most important area of activity” in the OSCE.⁷² He underlined the due consideration given to ODIHR’s recommendations in the political modernization of his country and announced that the “next stage of the ‘follow-up mechanism’” was beginning.⁷³

Concluding Remarks

Since 2003/2004, ODIHR’s election observation activities have been strongly criticized by a number of participating States. However, this has not led them to impose a general blockade of the OSCE’s work. On the contrary, many participating States are displaying an openness to dialogue that had been absent in previous years. Observation missions also continue to be deployed in states that are critical of this practice. A precondition for the successful con-

1999, *Final Report on the Presidential Election in Kazakhstan*, 4 December 2005, Warsaw, 21 February 2006, and *Final Report on the Parliamentary Elections in Kazakhstan*, 18 August 2007, Warsaw, 30 October 2007.

70 See PC.DEL/1218/05, cited above (Note 43).

71 Statement “In connection with the presidential elections in the Russian Federation”, PC.DEL/198/08, 7 March 2008.

72 Minister of Foreign Affairs, Republic of Kazakhstan, MC.DEL/1/07, 26 November 2007, p. 1.

73 Address of H.E. Dr. Marat Tazhin, Minister of Foreign Affairs of the Republic of Kazakhstan, at the OSCE Ministerial Meeting, Madrid, 29 November 2007, MC.DEL/38/07, 29 November 2007, p. 1.

tinuation of the OSCE's work in this field is the institutional independence of ODIHR and the independence of its election observation activities.

The OSCE possesses a developed body of commitments on democratic elections (principles and procedures) and election observation. Original and interpretive commitments on elections and election observation exist. Of these, the former, which can be directly derived from OSCE documents, are rarely called into question by anyone. This is not true of the interpretive commitments, which have evolved into practical standards through a process of exegesis and, above all, years of implementation on the part of ODIHR. By being constantly involved in their implementation, the participating States have legitimized these commitments. It is upon them that the discussion on the methodology of ODIHR election observation centres.

ODIHR's methodology documents and comments upon the entire electoral process – from legislation, via the announcement of results, to complaints and appeals. In ODIHR's view, its election observation is focussed mainly, but not exclusively on participating States with a non-democratic past. Its observation methodology represents an innovation that is currently without parallel in the field of international election observation. ODIHR's Elections Department is responsible for implementation of the methodology. On the whole, it is welcomed by the participating States as an instrument of technical co-operation.

ODIHR's work is particularly central to ongoing discussions in those countries where election observation is deemed to be an instrument capable of influencing domestic politics. Over the last five years, the Chairmanships have gone into this issue in depth. States holding the Chairmanship in future should not only prepare for election observations due during their term of office but also for a dialogue on how to maintain election observation as one of the OSCE's most prominent and politically meaningful field activities.

Aspects of the Decline of Human Rights Defenders in the OSCE Region

Human rights defenders in the OSCE region have received more attention and support than those in any other region of the world. Each of the powerful international governmental organizations dealing with human rights in the region has, in the past 20 years, promulgated standards, commitments, and declarations about the “vital role” of civil society human rights defenders and the need for governments to respect their work and the international community to protect their activities. The contents of these texts and documents need not be repeated here, and have been discussed by this author and numerous others many times.¹

The OSCE, in particular, has devoted much attention to human rights defenders, especially since around 2001. Numerous meetings in the framework of the human dimension were held, providing a platform for human rights defenders and for national delegations to show their support; the Office for Democratic Institutions and Human Rights (ODIHR) eventually established a unit to focus on human rights defenders; a number of Chairmen-in-Office declared that protecting human rights defenders was a priority, and in some cases lobbied intensively for the release of incarcerated activists;² and input by human rights defenders was sought on many occasions. Numerous other initiatives have been taken within the Council of Europe, especially by the Commissioner for Human Rights; by the United Nations, whose Office of the High Commissioner for Human Rights established a Civil Society Unit during this period, and which appointed a Special Representative of the Secretary General (now Special Rapporteur) on human rights defenders; and by the European Union.

Next must be mentioned all that various national governments have done. Among the OSCE participating States, the United States, the Netherlands, the United Kingdom, France, Norway, Sweden, Finland, Switzerland, the Czech Republic, and Poland, in particular,³ have emphasized, both in rhetoric and in their diplomacy and assistance programmes, the importance of human rights defenders. Finally, independent or quasi-independent foundations have strongly engaged with and assisted human rights defenders in the region. The Open Society Institute, funded by George Soros, has distin-

1 See, for example, Aaron Rhodes, Protecting human rights defenders: a priority for the OSCE participating States, in: *Helsinki Monitor* 4/2006, pp. 295-301.

2 The support of the Netherlands for the release of imprisoned Turkmen human rights defender Farid Tukhbatulin is an example, as is the intervention of ODIHR on behalf of Bosnian Serb human rights defender Branko Todorović. There are numerous further cases.

3 Not an exhaustive list.

guished itself by its unique combination of expert financial assistance and international advocacy on behalf of human rights defenders.

A substantial amount of money has thus been allocated and expended in the name of assisting and protecting human rights defenders. In the larger picture of foreign aid it is but a pittance; much has been spent on symbolic events; much has benefited those in donor countries; and much has been wasted. Much has been devoted to frivolous projects irrelevant to core human rights challenges. All the same, these funds, taken together, have sustained human rights activities that would have had less or no impact without those monies.

The support for human rights defenders – both financial and political – has been a matter of heated controversy and a lightning rod for international tensions. Human rights defenders became conflated with groups promoting democracy and political change, partly because of their own proclivities, partly because they were thus labelled by governments seeking to undermine them, and partly because supporters and donors urged this. The major political changes that have swept the region since 1989 have all involved human rights defenders as human rights has, more and more, been seen as the measure for the political legitimacy of a state.⁴ Human rights defenders have often been accused of being the tools of regime change strategies. The independence of human rights defenders, and independent journalists, has been challenged. Governments have treated them as political opposition movements, and the actions of some have given credence to such charges.

What is a human rights defender? A simple definition would be an individual devoting him- or herself to promoting compliance with international human rights standards and commitments, for example through monitoring, advocacy, and education. A true human rights defender is not a partisan political operative and is detached from any effort to acquire political power. But of course, human rights work is intrinsically and very powerfully political in nature. It is the effort to protect human dignity from abuses of power, and such protections are at the core of a liberal concept of the state and the constraints under which governments and democratic processes must be placed, in order to protect individual rights and freedoms. Human rights are, for the most part, violated by individuals and regimes in an effort to retain power and control. Protecting human rights weakens the grip of authoritarian governments and can lead to their peaceful replacement, and protecting human rights also encourages transparency and accountability. It is thus no surprise that the question of human rights defenders is highly politicized.

The politicization of the question of human rights defenders in the OSCE region seemed to reach a zenith in the wake of changes of government in such states as Georgia, Ukraine, and Kyrgyzstan, where support for human rights defenders was considered a political tool by cliques pushed out of

4 Reference is made to concepts articulated in Jack Donnelly, *Universal Human Rights in Theory and Practice*, Cornell 2003.

power and by their allies. In fact, earlier political changes in Croatia, Serbia, Albania, Slovakia, and elsewhere came about in part because human rights defenders documented abuses of political power and shamed their perpetrators.

Despite all the attention and resources devoted to the support and protection of human rights defenders in the OSCE region, it is fair to say that human rights movements in this region are in decline. While human rights communities in several formerly communist Eastern European countries have become firmly established, the general trend is negative. Indeed, the tendency for human rights defenders is following the overall human rights vector. That bodes very poorly for improvement in human rights, and indicates a tragic *stasis* affecting many millions of citizens in the region: Not only are human rights denied in numerous countries, but the capacity for civil society to protect itself has diminished.

According to the US-based institution Freedom House, 16 of the 56 participating States are either only partly or totally “unfree”. This means that they in no way adhere to commitments to the various liberal ideals encompassed by the Helsinki standards. This is a signal of the failure not only of those states, but also of their partners in the international community, a failure that has left entire populations without basic political rights. Seven of the participating States are classified as “not free”; they include one of the world’s most powerful military powers and energy producers; another is slated to chair the OSCE in 2010.

The situation of human rights defenders in Turkmenistan and Uzbekistan is the most egregious in the region. Most human rights defenders have been driven out of both countries, and Turkmenistan is, despite its OSCE participation, a closed country which, like only a few others in the world including Iran and North Korea, will grant visas neither to international governmental monitors nor to international NGOs. Uzbekistan’s violent suppression of human rights defenders made it something of a pariah state for a time, yet its strategy has succeeded in shutting off information about human rights in the country, and thus quieting criticism and reducing pressure. Human rights groups in Belarus have been paralysed by fear, restrictions, and state-sponsored demonization. The Russian human rights community, which during the Soviet Union articulated soaring ethical principles that informed later generations of human rights defenders around the world, is weaker now than five years ago, despite the huge capacity for civil society consciousness and activity that appeared in the early 1990s. This weakness is the result of both state pressure and international indifference.

Evidence of the decay of human rights activity may be seen in the reduced number of credible and professional reports coming from civil society in the region. An objective, comprehensive, and scientific inventory of relevant organizations would show a deficit in comparison to ten years ago.

The reasons for the decline of human rights communities in the nations where they are most needed are manifold and interlocking and raise compelling questions, not only about political change and the future, but about the sustainability of civil society structures, generally, and under present conditions, in particular. After the events of 11 September 2001, human rights took a back seat to anti-terrorism efforts, which were skilfully exploited by authoritarian states and became the pretext for further violations of human rights. Russia and other states have pushed back against the support for human rights defenders, and have even objected to OSCE meetings about human rights as such. Rising energy demand and prices led many European governments to seek accommodation with former Soviet states, including by reducing their support for human rights defenders to routine rhetorical pronouncements backed up by no concrete threats to change trade and other relationships on account of the persecution of human rights defenders; the German "Central Asia policy", influential in the European Union, and ostensibly based on the positive results of "Ostpolitik", has been the most vivid example. Resources for human rights defenders in the region have become more scarce as the Middle East has preoccupied the international community. So-called "donor fatigue" is undoubtedly another factor: After supporting human rights for close to two decades, donors are discouraged at the persistence not only of the very problems that make human rights activity important, but also the lack of progress in terms of professionalism and understanding they observe in their applicants and grantees.

All of these factors and more should be carefully examined by an objective, global analysis of what has resulted from the political and economic support for human rights defenders since 1989. What have been the goals and objectives of such support? Has support for human rights defenders indeed been aimed at specific changes of government, as has been charged? How much money has been allocated for human rights assistance? What have been the sources of these monies, and for which kinds of human rights (political, social/economic, etc) have they been allocated? How effective is human rights education? What are the most effective ways governments and international organizations can assist and protect human rights defenders based on past experience?

I would like to focus on two more specific points that have a bearing on the situation of human rights defenders and human rights organizations in the OSCE region, namely (1) the fragile ethos of independent human rights activity, politicization, and the challenge of human rights education, and (2) the dilemmas of securing effective financial support for civil society human rights activity.

The deepest roots of local human rights defender activity in the OSCE region lie in the Soviet dissident human rights community. Largely led and joined by intellectuals, including a number of prominent natural scientists, this movement established ethical and operational principles that have, in the

intervening decades, found expression in major international structures such as Human Rights Watch, as well as numerous national groups. The Moscow Helsinki Group, founded in 1976, proclaimed its intention to *assist the Soviet state* to fulfil its political commitments undertaken by signing the Helsinki Final Act. The Moscow Helsinki Group thus insisted that it did not oppose the Soviet government in a political sense, nor did it wish to take part in any effort to replace the government with another, but cared mainly for the behaviour of the government vis-à-vis the Helsinki human rights commitments (as one of its founders explained: “The problem is not so much *what*, as *how*.”). Its members adhered to a strictly nonpartisan agenda, distancing themselves from political activity in the sense of activity aimed at securing power and authority. A number of human rights organizations followed this example in rigidly demonstrating their disinterest in power, for example the Polish Helsinki Committee, which expelled any of its members elected to parliament.

The Moscow Helsinki Group tried to assure the Soviet leaders that it posed no threat to their overall power, and that it only sought to assist them to fulfil their promises. But most were forced into exile, imprisoned in gulag camps, or even murdered for their efforts, and the organization had to wait until the end of the Soviet Union before it could re-emerge. Still, the Moscow Group and its original members, such as Yuri Orlov and Ludmilla Alexeeva, deserve the highest honours for articulating that in order to be credible and effective, human rights activity needs to be politically disinterested. Political and ideological disinterestedness can allow human rights defenders to observe the behaviour of their governments and to measure state practices against specific international obligations. By following this principle, human rights defenders can remove themselves from the picture, much like some social scientists attempt to do. It has subsequently come to be widely understood that the protection of individual human rights requires mediating, non-partisan civil society structures that are capable of monitoring state practices without bias either in favour of states or on the side of groups that may have an interest in gaining political advantage.

Yet, the history of the many human rights groups spawned by the example of the Moscow Group is replete with failures to follow its ethical standards. Since around 1990, when human rights groups mushroomed throughout the region, one can cite numerous examples of human rights organizations acting as or morphing into proto-political organizations and parties; self-proclaimed human rights groups associated with violent insurgencies; human rights groups working in tandem with government to obfuscate or relativize rights violations; and with human rights organizations concerned not with universal human rights but with the rights of specific ethnic, religious, and political minority groups.

These groups, which have strayed away from the principles of universal human rights and into partisan politics, often do not bear sole responsibility

for the problem but share it with other actors that have disrespected the ethos of political neutrality essential to credible human rights monitoring.

Soon after the historical change of government in Czechoslovakia, for example, representatives of the new government asserted that there was no longer any need for the Czechoslovak Helsinki Committee, since civil society and human rights activists had taken control of the government. They had to be reminded that every government needs to be monitored by independent groups, and that the rights of minorities and many others needed to be protected. A similar process has taken place in Georgia, where human rights workers joined the government after the Rose Revolution, and then disregarded appeals by other human rights activists who had kept their distance. Indeed, the Russian government has sought to move closer to human rights organizations such as the Moscow Helsinki Group to associate with its prestige, and to blunt its independent criticism by binding it into civil society formations that co-operate with the state. Opposition political movements are generally intolerant of independent human rights organizations, and seek to incorporate or instrumentalize them. Kazakh opposition parties have sought to tie that country's civil society into a unitary political structure that would deprive independent groups of their political neutrality. Belarusian human rights groups have been under pressure to associate with opposition political groups, which have at times not understood the concept of independent monitoring and independent media.

In general, it is clear that as political conditions deteriorate, human rights activists are forced by circumstances to ask if their principled detachment from political action can be sustained. They feel a responsibility to their societies that can sometimes only be met by means of political engagement. Human rights orthodoxy can seem a luxury. But it cannot be denied that many groups and activists not under acute pressure have not risen to the moral challenge of nonpartisan monitoring. These include representatives of political parties who criticize regimes when their opponents are in power, and defend the government, ignoring human rights problems when their party wins, as well as nationalists who are unsympathetic to minorities. What they have in common is a sometimes wilful misunderstanding of universal human rights.

To deepen understanding of the ethical parameters of human rights engagement is the task of human rights education. Since the fall of the Iron Curtain, substantial human and financial resources have been devoted to human rights education and training, and yet the impact on the capacities of human rights defenders and nongovernmental organizations appears to have been only modest. Governments and intergovernmental organizations have turned to education and training in human rights as relatively non-controversial methods by which to address human rights problems. A commonly held assumption is that once government officials and civil society understand human rights, human rights protection will be strengthened. This

is only partially true, since most of the governments in the region that egregiously violate human rights do so wilfully in order to maintain power. Twenty years after the collapse of Europe's communist regimes, exposure to human rights ideas has extended widely, largely via human rights education projects aimed at government officials, judges, and lawyers, as well as at nongovernmental organization representatives.

Of course, no one can claim that education in any particular field has been a total success, given the persistence of ignorance in the world. Yet human rights education has carried with it large and perhaps unrealistic expectations, while its implementation has often been weak and careless. Most of the countless seminars, training events, workshops, and courses have been organized and run by those with some competence in the technical and legal aspects of human rights, who have treated human rights issues from a technical/legal perspective, as opposed to a political one. Fundamental questions about the meaning and political implications of human rights, and about the moral challenges posed by human rights for civil society, have often been ignored. In many cases that I have observed personally, when human rights education has tried to deal with the moral and political questions of human rights, it has been undertaken as a form of condescending missionary activity that, especially when under the influence of educationalists, subjects target audiences to exercises suitable for school children.

And yet a generation of professional seminar attendees has been spawned, and indeed, one can observe senior persons from NGOs still taking part in training seminars about human rights; often these seminars pay per diems and allow for travel and accommodation costs. There have been few solid assessments of the impact and results of human rights education. At the same time, and especially given the considerable penetration of human rights education in the region, the obdurate weaknesses of civil society's grasp of fundamental human rights principles and the general failure to build sustainable civil society structures that can successfully temper state power and hold governments accountable on the basis of principle, raise serious questions.

This brings us to a second problem, that of financial support. Sustainable civil society structures devoted to independent human rights activity do not have to depend solely on funding mechanisms. After all, the Moscow Helsinki Group began to work with no grant from a funder. Its members were volunteers who had no expectation of receiving payment for their work. The organization worked out of its members' humble apartments. The members used their own meagre resources to pay the small costs of producing documents. And yet today one would be hard-pressed to find such a voluntary human rights structure anywhere in the region, although internet communication allows huge research, networking, and advocacy capacity for small costs.

The opening of Central and Eastern Europe and Central Asia produced an abundance of human rights funding, from governments, intergovernmental

organizations, and foundations. Those human rights defenders most devoted to principles often lost ground in the resulting competition to former members of communist bureaucracies who knew how to approach other bureaucracies and who were able and willing to manipulate funders in order to obtain grants (“a project consists of a proposal and a report”). It is a commonplace that needs no more elaborated repetition here that the “civil society” emerging in the region assumed such a form.

In the meantime, funding sources have become fewer in number, or have found other challenges, as we have mentioned above, and funding mechanisms have become increasingly bureaucratic and slow. The complex procedures required, for example, to compete for funding under the European Commission’s human rights funding instruments can discourage a grass-roots activist organization. The procedures reflect the accretion over several decades of an NGO-support culture that makes excessive demands for “measurable results”, and requires financial accounting and reporting that consume major portions of NGOs’ time and energy. Procedures were much simpler at the beginning of the post-communist period, when embassies and some private American foundations often gave immediate support with few reporting requirements, based on subjective judgements of the values and integrity of applicants. In addition, these days very few funding sources provide core support, as opposed to project support, which is a key distinction. Core support means a funder trusts a local civil society group to know what it needs to do, while project support means a donor decides what is important and then in effect puts a project out to bidders. As human rights conditions change rapidly, having to define how one’s work will conform to the thematic interests of donors a year or more in the future is clearly dysfunctional. Donors’ interests often seem disconnected from reality, and even more so from an uncertain future. This process is also degrading to experienced and mature human rights defenders, who resent being told what to focus their work on, feel that this infantilizes them.

Today, government and EU funding mechanisms are the predominant form of support for human rights activity, although the Open Society Institute continues to counteract the trend. As a result, it is assumed that human rights NGOs in the former Soviet Union are supported from abroad, making them suspect to governments and citizens, and to the human rights community itself.

The EU human rights funding mechanisms have undergone numerous reorganizations, but it must be pointed out that in some cases intergovernmental organizations such as the Council of Europe and the OSCE have sought support under the same budget lines as NGOs, or money has been removed from NGO budget lines to support projects by such intergovernmental groups. In some cases it has appeared as if managers do not recognize any substantive difference between work done by independent organizations and that done by international civil servants whose programme reflects an

agreement among governments. Human rights has become a growth industry in the intergovernmental sector, which has led to growing bureaucratic structures that need to find support. But how does this contribute to strengthening civil society's ability to independently monitor state behaviour?

Civil society in the former Soviet Union includes private companies, many of whom are hugely successful. However, for a variety of reasons, including corruption, they have not recognized their responsibility and the practical necessity of supporting human rights activity. Nor have governments found ways to support human rights groups without exerting control over them, as is the case in numerous European countries that successfully support local civil society. The amount of support coming from within the Eastern countries for human rights is indeed almost nil, and in the few cases where such support has emerged, most notably that of the Russian financier Mikhail Khodorkovski, it has been harshly punished by the state, presumably because of its potential for success. Western governments have not devoted much energy to encouraging the formerly totalitarian states in the region to adopt policies that will allow for the organic support for civil society that will bind the interests of human rights NGOs to those of the private sector. Civil society human rights activity remains a client of foreign powers, a contradiction that can be understood if one were to imagine how Western governments would view and react to the work of a human rights NGO totally supported by Russia, China, or Iran.

Finally, one must pay special attention to human rights groups in the new EU member states. Located in countries no longer considered eligible for important kinds of support for human rights, the civil society structures in these countries have difficulty carrying out monitoring of still-problematic issues in their own countries. The same problem afflicts human rights groups in countries such as Croatia: With Croatia no longer the focus of international attention for its ethnic violence and nationalism, important organizations like the Croatian Helsinki Committee no longer attract support, although severe problems exist that will not be solved without civil society engagement. Human rights groups in Romania, Bulgaria, Hungary, Poland, the Czech and Slovak Republics, Ukraine, and the Baltic states renewed the European human rights movement after 1989 with their principles, their respect for civil society, and their understanding of how to approach the challenges to their East. They should be listened to as politicians and officials think about what has helped and what has failed with respect to supporting human rights defenders in the region.

Are De Facto Regimes Bound by Human Rights?

In classical international law, there was only one subject: Only the sovereign state could be the bearer of rights and duties in international law. As a consequence, only the state was bound by treaties, and a transformation of the treaty into national law was always necessary to make the obligations of a state binding on legal persons within it. This was particularly true with regard to an area that increasingly became an object of international legal codification following the Second World War, namely human rights, which is unique inasmuch as the states made a mutual pledge to treat subjects of their domestic law in a particular way.¹ This was a revolution in international law, since international enforcement mechanisms aimed at combating human rights violations contributed to establishing the partial international legal personality of individuals. This means that individuals can directly assert rights derived from a treaty of international law at the international level.

States Are Obligated to Implement Human Rights Standards

States bear the main responsibility for the protection and enforcement of human rights. This applies to both fundamental constitutional rights and international obligations derived from human rights treaties. This is explicitly underlined in Article 1 of the European Convention on Human Rights (ECHR) of 1950: "The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention." Of course, demanding implementation in this way assumes a functioning state power, as only the state can make rights applicable in practice. And this ultimately assumes the existence of effective institutions of justice and law enforcement. A further requirement is the rule of law, which binds both the state and the subjects of laws to the law.

States have to grant human rights to everyone who is subject to their sovereignty. This does not only apply to their own citizens, and the obligation is not restricted to the territory of the state. States also exercise sovereignty on board ships and aircraft registered with them. Moreover, in cases of armed conflict, when the armed forces of one state occupy the territory of another, the former becomes the occupying power and exercises sovereignty. The same applies if the state turns the occupied territory into a dependent state

1 Fundamental human rights are now considered to be *erga omnes* rights and absolutely binding on all states. As a consequence, any state can demand of any other state that it uphold them. Cf. Andrew Clapham, *Human Rights Obligations of Non-State Actors*, Oxford 2006, pp. 96ff.

that can definitely be considered as a de facto regime. This was shown by the case of *Loizidou v. Turkey* before the European Court of Human Rights (ECtHR).² This case concerned the fact that the Cypriot plaintiff could no longer make use of her property in Northern Cyprus following the Turkish invasion in 1974. In 1989 she filed a complaint against Turkey with the ECtHR as a result of the continuous refusal to grant her access to her property, which she considered a breach of Article 1 of the First Additional Protocol to the European Convention on Human Rights (ECHR). At the heart of the case was the question of who exercised sovereignty in Northern Cyprus, as Turkey contended that it was not the appropriate defendant.³ Instead, Turkey argued, the responsible party was the Turkish Republic of Northern Cyprus, which, as an independent state, was accountable for its own actions. Turkey felt compelled to take this position because it is the only state that has recognized Northern Cyprus as a state. The Court, however, did not share this view. Rather, it argued that the concept of jurisdiction applied in Article 1 ECHR is not restricted to a state's own territory. The Court saw this as a matter of state sovereignty, which can apply both within and outside state territory. For instance a state may enjoy effective control of a region outside its territory as a result of military measures, it being irrelevant whether control is held directly by the state's own forces or by a subordinate local administration. Since it was the presence of Turkish troops that was preventing the plaintiff from returning to her property, the incident occurred under Turkish jurisdiction. Consequently, on 28 July 1998, the ECtHR handed down a judgment that obliged Turkey to pay compensation.

The *Loizidou* example shows the extent to which states are obliged to respect human rights. If a state can be held responsible for its actions outside its territory, it is bound by human rights.

This example relates to the enforcement of treaty obligations. However, human rights are not only part of treaty law. Fundamental human rights currently also belong to the field of customary international law. They must therefore be respected by all states and by non-state actors.

The Legal Status of De Facto Regimes in International Law

International law is a legal system whose central task is to secure international peace. It must therefore be focused on real conditions. The clearest manifestation of this pragmatic approach taken by international law is to be

2 Cf. Hans-Joachim Heintze, On the Relationship between Human Rights Law Protection and International Humanitarian Law, in: *International Review of the Red Cross* No. 856, 2004, pp. 789-814, here: pp. 806-808.

3 Cf. André Husheer, Die völkerrechtliche Verantwortlichkeit der Türkei für Menschenrechtsverletzungen in Nordzypren [Turkey's Responsibility for Human Rights Violations in Northern Cyprus in International Law], in: *Zeitschrift für Europarechtliche Studien* 3/1998, p. 389.

found in the Second Protocol Additional to the Geneva Conventions of 8 June 1977. The Protocol is concerned with non-international conflicts, which it defines in Article 1 as armed conflicts that take place in the territory of a state between its armed forces and “other organized armed groups, which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol”.⁴ It is easy to understand why it is hard for the states to accept this definition when it is a matter of respecting the rights and duties of insurgents that have undermined the state monopoly on the use of force. Nonetheless, insurgents do exercise power in practice and, in the interest of victim protection, a minimum of co-operation is necessary.⁵

If international law grants even insurgents the status of partial subjects of international law, this must a fortiori apply to quasi-state entities that have consolidated their positions over a longer period of time.⁶ The principle of effectiveness means that they can gradually be granted international legal personality while remaining unrecognized. Developments on the ground have ultimately led to the emergence of a “stable de facto regime”, as the territory is being governed effectively. Such an entity therefore fulfils the preconditions for statehood and cannot permanently be regarded as legally null.⁷ According to Jochen A. Frowein, the existence of stable de facto regimes is a consequence of the “imperfect nature” of international law, which provides no criteria by which it can be determined whether an unrecognized entity possesses the quality of statehood or not. Against this background, we can refer to state practice, which demonstrates that the international legal subjectivity of even unrecognized entities cannot be denied.⁸

This approach is necessary to ensure that the fundamental norms of international law apply to de facto regimes. This is true above all with regard to the renunciation of violence. The UN General Assembly Definition of Aggression explicitly states that the term “state” is used in the resolution “without prejudice to questions of recognition or to whether a State is a member of the United Nations”.⁹ This explicitly underlined the fact that the renunciation

4 Office of the United Nations High Commissioner for Human Rights, *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts* (Protocol II), 8 June 1977, available online at: <http://www2.ohchr.org/english/law/protocol2.htm>.

5 Cf. Hans-Peter Gasser, *International Humanitarian Law and Human rights Law in Non-International Armed Conflict*, in: *German Yearbook of International Law*, Vol. 45, Berlin 2003, pp. 149ff.

6 Especially since de facto regimes often arose from non-international armed conflicts. Cf. Georg Dahm/Jost Delbrück/Rüdiger Wolfrum, *Völkerrecht* [International Law], Vol. I/2, Berlin 2002, p. 303.

7 Cf. Volker Epping, *Völkerrechtssubjekte* [Subjects of International Law], in: Knut Ipsen, *Völkerrecht* [International Law], Munich 2004, p. 107, para. 15.

8 Cf. Jochen Abr. Frowein, *De facto Regime*, in: Rudolf Bernhardt (ed.), *Encyclopedia of Public International Law*, Vol. I, Amsterdam 1992, p. 966.

9 United Nations, General Assembly, Definition of Aggression, A/RES/29/3314, 14 December 1974, Article 1, available online at: <http://www.un-documents.net/a29r3314.htm>.

of violence also applies to non-state entities. The same is true of the liability of these entities in international law. In its advisory opinion on Namibia, the International Court of Justice (ICJ) ruled that “physical control of a territory, and not sovereignty or legitimacy of title, is the basis of State liability for acts affecting other States”.¹⁰ Further evidence that these entities have a status in international law is provided by the fact that they are allowed to join multilateral treaties in the interests of international security – the GDR and Taiwan becoming members of the Nuclear Test Ban Treaty in the 1960s, for instance, though both were unrecognized at that time. Stable de facto regimes also continue to play a major role today thanks to their significance for security policy. This suddenly became clear in 2008 with the outbreak of the South Ossetia conflict.¹¹ South Ossetia satisfies the criteria for statehood; it declared its independence again most recently following the referendum held on 12 November 2006. South Ossetia’s participation in the multilateral agreements between Russia and Georgia establishing a ceasefire and committing the parties to the renunciation of violence further supports the notion that it has a status in international law. On the other hand, the South Ossetian government does not effectively control the entire territory, and both the government and the economy are dependent on Russia. But this is no hindrance to characterizing the entity as a de facto regime, even though it is not sovereign. The high degree of dependence on Russia, as Luchterhandt relevantly points out, is precisely the reason for the stability and durability of this entity.¹² The same also applies to other entities, such as Northern Cyprus, with its links to Turkey.

The hallmark of a stable de facto regime is the lack of recognition. Consequently, recognition brings an end to this status and the awarding of statehood. The fate of the GDR shows, however, that recognition merely by one’s allies (in this case, the other members of the Eastern bloc) is not enough to eliminate the status of a stable de facto regime.¹³ The same can be expected to apply to South Ossetia’s recognition by Russia and Nicaragua, which has been condemned as a violation of international law by the Council of Europe.¹⁴ Russia is thus behaving in a similar way to Turkey with regard to Northern Cyprus and is likely to be equally unsuccessful. A de facto entity

10 Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, *ICJ Reports* (1971), para. 118.

11 For more on the conflict itself see Otto Luchterhandt, *Völkerrechtliche Aspekte des Georgien-Krieges* [International Legal Aspects of the Georgia War], in: *Archiv des Völkerrechts* 46 (2008), pp. 435ff.

12 Cf. *ibid.*, p. 459.

13 For the basis of this, see Jochen Abr. Frowein, *Das de-facto-Regime im Völkerrecht* [The De Facto Regime in International Law], Heidelberg 1968, pp. 35ff.

14 “The Assembly condemns the recognition by Russia of the independence of South Ossetia and Abkhazia as a violation of international law and Council of Europe statutory principles.” Council of Europe, Parliamentary Assembly, Resolution 1633 (2008).

that can only survive thanks to the deployment of foreign troops will never be recognized by the international community, but will remain isolated.¹⁵

It is in the interest of the international community to see de facto statehood overcome. As the situation in the Caucasus shows even “frozen conflicts” can represent a major threat to regional peace, as violence may break out at any time. Moreover, after the conflicts have been resolved and the new states recognized – as occurred in Yugoslavia – they can seek to become part of the international community, which would require them to respect certain values as formulated by the CSCE/OSCE and EC/EU.¹⁶ This is certainly an advantage. Nonetheless, one may still ask whether non-recognized quasi-state entities are already obliged to respect human rights even though they have not joined the relevant treaties.

The Human Rights Obligations of Non-State Actors

If pragmatic international law accepts that de facto regimes are bearers of international legal rights, this means that they must also have duties. Given the *erga omnes* applicability of fundamental human rights, there can be no doubt that they belong to the catalogue of duties of de facto regimes. That means that the latter, similarly to states, are bound to respect human rights wherever they exercise jurisdiction.

By following this approach, international law does justice to a development that has been visible for decades. Academic commentators have seen in the strengthening of human rights protection a tendency to replace the principle of sovereignty with that of subsidiarity.¹⁷ This development encompasses the obvious trend towards the creation of sub-state entities.¹⁸ As a result, many autonomous entities and federal states have recently emerged – a process that has been characterized as the transcendence of the “one-dimensional state”.¹⁹ Sub-state entities are characterized by the creation of territorial entities that fulfil the classical criteria of statehood – territory, population, government – below the level of state formation.

It is therefore possible that human rights protection may become the responsibility of the de facto regime. It is true to say that this development may not always transpire peacefully and undoubtedly represents a major challenge

15 Cf. Uwe Halbach/Sabine Jenni, Nachkriegsentwicklung in Südossetien und Abchasien [Post-War Developments in South Ossetia and Abkhazia], in: *SWP-Aktuell* 28, June 2009, p. 2.

16 Cf. Christian Hillgruber, The Admission of New States to the International Community, in: *European Journal of International Law* 1998, p. 492.

17 Cf. Paolo G. Carozza, Subsidiarity as a Structural Principle of International Human Rights Law, in: *American Journal of International Law* 2003, pp. 41ff.

18 Cf. Gnanapala Welhengama, The Legitimacy of Minorities’ Claim for Autonomy through the Right to Self-Determination, in: *Nordic Journal of International Law* 1999, p. 413.

19 Zelim A. Skurbaty, Summary Conclusions, in: id. (ed.), *Beyond a One-Dimensional State: An Emerging Right to Autonomy?* Leiden 2005, pp. 565ff.

for international law, particularly in cases where several armed groups exercise regional power as the central government disintegrates. There are also problems when the command structure of the insurgents collapses and regional warlords come to power. Such fragmentation complicates the acceptance of certain rules and of human rights, particularly since an essential foundation of the validity of any legal order is now lacking. This is the expectation of reciprocity, according to which a subject of international law behaves in conformity with the law in the expectation that other subjects of international law will do the same. Things are further complicated by the fact that, in negotiations with warlords, it is difficult to offer them benefits that could be considered as a *quid pro quo* for their respect of human rights.²⁰

Nonetheless, *de facto* rulers must also be required to observe human rights, for “we need not abandon human rights thinking in the absence of a government ready to carry out all the traditional functions of statehood”.²¹ The literature provides examples of insurgents signing specific human rights undertakings. The refusal of *de facto* rulers to conclude agreements to secure human rights should not, however, be taken as meaning that they are not obliged to respect human rights. The fact that non-state actors are subject to them is derived entirely from the fact that the former exercise sovereignty and must observe human rights as a matter of customary law. There is thus no need for non-state actors to make any kind of commitment to uphold them.

The extent to which human rights need to be observed as a matter of customary law is of course an open question. Intensive discussion of this culminated in the adoption of the Turku Declaration on minimum humanitarian standards in 1990.²² These minimum standards are derived from non-derogable human rights and international humanitarian law and must be observed by all sovereign states. The study on customary law by the International Committee of the Red Cross (ICRC) pursued a similar goal.²³

Both documents make clear that the normative basis for binding non-state actors to the fundamental human rights that the documents enumerate has been laid. It is therefore time to turn to the question of enforcement.

20 Cf. Riikka Koskenmäki, Legal Implications Resulting from State Failure in the Light of the Case of Somalia, in: *Nordic Journal of international law* 73 (2004), pp. 20ff.

21 Clapham, cited above (Note 1), p. 14.

22 For details, see: Asbjørn Eide/Theodor Meron/Allan Rosas, Combating Lawlessness in Grey Zone Conflicts through Minimum Humanitarian Standards, in: *American Journal of International Law* 89 (1995), pp. 215ff.

23 Jean-Marie Henckaerts/Louise Doswald-Beck, *Customary International Humanitarian Law*, Cambridge 2005, pp. 20ff.

The example of Northern Cyprus, as mentioned at the start, shows that judicial proceedings provide the most complete protection for human rights. For instance, all the judgments of the European Court of Human Rights have so far been satisfied, even if they have been the subject of intense discussions on various occasions. Even Turkey was ultimately willing to pay Ms. Loizidou compensation. State practice in the cases of Northern Cyprus, Chechnya, and Moldova demonstrates that human rights can also be enforced against de facto regimes.²⁴ However, these procedures could only take place because the human rights violations could be attributed to a signatory state of the European Human Rights Convention. This state could then be obliged to pay compensation and reparations to the victims. Court cases of this kind could also be used to punish human rights violations in places such as South Ossetia, as that “state” is similar to Northern Cyprus in that it only exists by virtue of Russia’s military intervention.

Against this background it is understandable that Russia has little sympathy for the ECtHR. The flood of complaints, very many of them stemming from Russia, has led to the Court becoming overwhelmed.²⁵ The complex procedure used so far therefore urgently needs to be simplified. At present, admissibility of each complaint is examined by three judges. It is intended to change this by means of an additional protocol to the Convention that will make it possible for a judge and two assessors to evaluate the admissibility of a claim. Where there are similar cases, as in the example of human rights violations by the Russian Army during the war in Chechnya, the aim is to introduce abbreviated procedures. As a precondition of these simplifications, all 47 member states need to ratify the protocol. So far, 46 have done so; only Russia has not. In 2006, however, the Duma explicitly rejected ratification, making Russia responsible for the current and growing ineffectiveness of the ECtHR. One factor behind the Russian rejection was the decision in the case of *Ilascu v. Moldova and Russia*, which made Russia responsible in part for human rights violations committed in the “Moldavian Republic of Transnistria”.²⁶

The example of Russia shows that barriers can even be put in the way of the juridical enforcement of human rights when the violations can be ascribed to a member state. The chances are even slimmer in the case of de facto regimes that do not belong to a treaty regime designed to protect human rights.

Under these conditions, the possibility of pursuing the perpetrators of serious human rights violations at the international level – i.e. via international criminal justice – is all the more interesting. There have been inter-

24 Cf. Hans-Joachim Heintze, *Las Palmeras v. Bamaca-Velasquez und Bankovic v. Loizidou?* in: *Humanitäres Völkerrecht* 18 (2005), pp. 177ff.

25 While the court can rule on 1,500 cases, around 2,300 are brought each month.

26 Cf. Alastair Mowbray, *Faltering Steps on the Path to Reform of the Strasbourg Enforcement System*, in: *Human Rights Law Review* 2007, p. 609.

esting developments in this area in recent years. The statute of the International Criminal Court (ICC)²⁷ contains a list of definitions of genocide, crimes against humanity, and war crimes. The perpetrators can be punished for such crimes regardless of whether they acted in the name of a state, as private individuals, or as the representatives of a non-state actor. International criminal justice is a complementary set of instruments for the punishment of crimes under international law. According to Article 17 of the Statute, it only comes into play when a state is either unwilling or genuinely unable to carry out the investigation or prosecution itself. For a case to come under the jurisdiction of the ICC, it is also necessary that the crime in question represents a violation of international law and is thus of concern to the international community. One consequence of this is that criminal acts committed by non-state actors would also come under the jurisdiction of the Court.

The idea behind international criminal justice is one of prevention. The hope is that potential perpetrators – and particularly non-state actors from territories in which there is a lack of functioning jurisdiction based on the principles of the rule of law – will in the future be deterred by the existence of the Court. Admittedly, in such cases, the Court always does have to examine whether the acts carried out by the perpetrator can be ascribed to a state. In this respect, the International Criminal Tribunal for the former Yugoslavia (ICTY) established a much-discussed standard in the case of Duško Tadić, when examining whether the actions of the Bosnian Serbs in the war in Bosnia and Herzegovina could be ascribed to the Federal Republic of Yugoslavia. The tribunal affirmed this on the grounds that the wages of Bosnian Serb troops were paid by the Yugoslavian army, so that a sufficient degree of control could be said to exist.²⁸

But even when the acts are ascribed not to states but to de facto regimes, international criminal justice offers a procedure to prevent and punish the most serious violations of human rights.

It is quite possible that a failure to enforce human rights standards may lead to the creation of obligations for other states. This is visible in the asylum law of the European Union. If many European states used to assume that an asylum claim was only justified in the case of state oppression, this changed in 2004 with the directive on minimum standards for qualification as refugees.²⁹ Article 6 explicitly names non-state actors as a group the persecu-

27 *Rome Statute of the International Criminal Court*, available online at: <http://www.icc-cpi.int/Menus/ICC/Legal+Texts+and+Tools>.

28 Cf. Axel Buchwald, *Der Fall Tadic vor dem Internationalen Jugoslawientribunal im Lichte der Entscheidung der Berufungskammer vom 2. Oktober 1995* [The Case of Tadic at the International Criminal Tribunal for the former Yugoslavia in the Light of the Decision of the Appeals Chamber of 2 October 1995], Berlin 2005, pp. 62f.

29 *Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted*, available online at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML>.

tion or infliction of serious harm by whom must be recognized as grounds for granting refugee status.

Summary

De facto regimes possess partial international legal personality and are bound by both treaty law and customary international law. The obligation to observe fundamental human rights is, in the first instance, a consequence of the fact that they belong to customary international law and have *erga omnes* character. It is possible to enforce human rights against a de facto regime. On the one hand, proceedings can be brought on the basis of treaty law when the establishment of the de facto regime was made possible by the military presence of a state that belongs to a regime such as the EHRC. This state is then responsible for the payment of compensation to the victims of human rights violations.

If the human rights violation is attributable to the de facto regime, all that remains are the means of enforcing general human rights protection under customary international law, i.e. above all the exertion of political pressure by the UN and the international community. Since de facto regimes are generally keen to seek international acceptance, this pressure can certainly be effective.

A further means of enforcement is international criminal justice. It serves to punish the perpetrators of serious human rights violations and to eliminate impunity. This is only of indirect benefit to the victims.

Ministerial Council Decision No. 7/08 on Strengthening the Rule of Law – The Search for Common Ground in the Third Dimension

Introduction

The concept of comprehensive security is one of the cornerstones of the OSCE. It rests upon the conviction that common European security “from Vancouver to Vladivostok” can only be guaranteed in the long term if economic and environmental issues and democracy and human rights are placed on an equal footing with politico-military aspects of security. In the area of democracy and human rights, the so-called third (or “human”) dimension, in particular, it proved possible to consolidate and significantly expand the body of joint CSCE/OSCE commitments in the last decade of the twentieth century, following the raising of the Iron Curtain.¹

Since then, however, there have been few additional developments to this “*acquis*”. And while the basic principles of the third dimension such as human rights, democratization, and the rule of law have not yet been called into question – at least not openly – these are precisely the areas where, in recent years, the practical implementation of the *acquis* has so often been the subject of highly controversial and protracted discussions between OSCE participating States.²

Particularly controversial topics include election monitoring; fundamental rights and freedoms, such as freedom of expression and freedom of the media, freedom of assembly and freedom of association; support for and protection of human rights defenders;³ the participation of non-governmental organizations in OSCE events;⁴ the mandate of OSCE institutions such as the

Note: The views contained in this contribution are the author’s own.

1 Key steps here were the meetings of the Conference on the Human Dimension of the CSCE in Paris (1989), Copenhagen (1990), and Moscow (1991), as well as the CSCE Summits in Paris (1990), Helsinki (1992), and Budapest (1994).

2 The causes of this can be found in the sometimes widely varying views participating States possess regarding the value of the third dimension within the overall tableau of OSCE activities; for more details, see also P. Terrence Hopmann, *The Future Impact of the OSCE: Business as Usual or Revitalization?* in: Institute for Peace Research and Security Policy at the University of Hamburg (ed.), *OSCE Yearbook 2008*, Baden-Baden 2009, pp. 75-90.

3 Although a clear commitment to the necessity of protecting human rights defenders was made at the Budapest Summit in 1994 (Decision No. VIII of the Budapest Document 1994, The Human Dimension, para. 18), there have been many cases of disagreement between the participating States over how the issue of human rights defenders should be treated at OSCE events over the years.

4 In Decision No. IV of the Helsinki Document 1992, paras 12ff. (particularly paras 14f.) the participating States make a commitment to provide opportunities for the participation

Warsaw-based Office for Democratic Institutions and Human Rights (ODIHR) and the Representative on Freedom of the Media; relevant activities carried out by the OSCE field missions; the modalities of OSCE events;⁵ as well as the priorities of the third dimension in general and the way they are dealt with in OSCE bodies, particularly the Permanent Council and the Human Dimension Committee.

Against this background it may come as a surprise that most of the substantive documents adopted at the Helsinki Ministerial Council Meeting in December 2008 can be assigned to the third dimension.⁶ These include Decision No. 7/08 on further strengthening the rule of law in the OSCE area.⁷

Germany's Special Interest in Promoting the Rule of Law

Ministerial Decision No. 7/08 goes back to an initiative proposed by Germany, a country that places a special value on rule of law issues.⁸ In light of Germany's historical experience, the principle of the rule of law was anchored in the constitution of the Federal Republic of Germany⁹ and is considered to be one of the foundation stones upon which the German state is built.¹⁰

The German government has long been committed to promoting the principles of the rule of law at the international level. It supports the "juridification" of international relations by, for instance, consistently calling for

of non-governmental organizations in OSCE events. Nevertheless, there have often been disagreements regarding the inclusion of particular NGOs, who have been accused by individual participating States of perpetrating violence or publicly condoning terrorism or the use of violence.

- 5 Decision No. 476/2002 of the Permanent Council governs the modalities of OSCE meetings on human dimension issues; the relationship between this decision and the OSCE's general Rules of Procedure (MC.DOC/1/06), which were adopted at the Ministerial Council Meeting in Brussels in 2006, has often been an object of heated discussion between participating States.
- 6 Ministerial Declaration on the Occasion of the 60th Anniversary of the Universal Declaration of Human Rights (MC.DOC/2/08) and the Ministerial Declaration on the 60th Anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide (MC.DOC/3/08), as well as Ministerial Decisions 5/08 (on trafficking in human beings), 6/08 (Sinti and Roma), 7/08 (rule of law) and 8/08 (Alliance of Civilizations), all in: Organization for Security and Co-operation in Europe, *Sixteenth Meeting of the Ministerial Council*, 4 and 5 December 2008, Helsinki, 5 December 2008, at: <http://www.osce.org/item/36852.html>.
- 7 Decision No. 7/08, Further Strengthening the Rule of Law in the OSCE Area, in: *ibid.*, pp. 20-23.
- 8 The German word "*Rechtsstaat*" (state under the rule of law, literally "rights-state") was invented in the 19th century in opposition to the concept of the absolutist state.
- 9 Article 20 para. 3 of the Basic Law, and corresponding clauses in the constitutions of the *Länder*. The core elements of the principle of the rule of law as interpreted by the German Constitutional Court (*Bundesverfassungsgericht*) are: justice, legal certainty, the principle of proportionality, the primacy of the law, and the binding of the executive to statute.
- 10 According to Article 20, paras 1 and 2 of the Basic Law, "the Federal Republic of Germany is a democratic and social federal state".

the strengthening of international legal jurisdiction via instruments such as the International Criminal Court.

Where required, Germany also offers other states support and advice with legislative issues – for instance via the German Foundation for International Legal Cooperation (IRZ), which was established to concentrate mainly on the post-Communist reform states and has been helping partner states to reform their legal and justice systems since 1992. Several of Germany's party-affiliated political foundations also support projects in the area of rule of law, as does the *Gesellschaft für Technische Zusammenarbeit* (GTZ) in the area of development policy.

Germany also supports the rule of law in multilateral frameworks – including the United Nations, whose General Assembly has taken up the topic several times in recent years.¹¹ In the European Union, Germany and France have joint responsibility for co-ordinating the EU Rule of Law Initiative for Central Asia, one of the main focuses in the implementation of the EU's Central Asia Strategy, which was adopted during the German EU Presidency in the first half of 2007.¹² Germany also used its chairmanship of the G8 in 2007 to take initiatives in this area – including via the holding of an expert conference in Berlin in November 2007 and a declaration of G8 foreign ministers in support of the rule of law.

In the OSCE, a broad commitment to the rule of law has long been part of the *acquis* taken on by participating States. Its general form is set out in numerous documents,¹³ and it has been specifically underlined, for instance in 2005 at the Ljubljana Ministerial Council Meeting in Decision 12/05 on upholding human rights and the rule of law in criminal justice systems.¹⁴ There is a dedicated Rule of Law Unit within the Democratization Department of ODIHR in Warsaw. Field missions in various OSCE regions also run projects on the topic.

11 United Nations General Assembly, Resolutions A/RES/62/70 from 2008 and A/RES/61/39 from 2006, each entitled “*The rule of law at the national and international levels*”, as well as Resolutions A/RES/57/221 from 2003 and A/RES/55/99 from 2001, each entitled “*Strengthening the rule of law*”.

12 Cf. *The EU and Central Asia: Strategy for a New Partnership*, 31 May 2007, at: <http://www.auswaertiges-amt.de/diplo/en/Europa/Aussenpolitik/Regionalabkommen/EU-CentralAsia-Strategy.pdf>.

13 An overview is available in the compilation put together by ODIHR: *OSCE Human Dimension Commitments* – Volume 1 (Thematic Compilation) and Volume 2 (Chronological Compilation), 2nd edition 2005 – under the heading “Rule of Law” in each case.

14 Cf. Organization for Security and Co-operation in Europe, *Thirteenth Meeting of the Ministerial Council*, 5 and 6 December 2005, Ljubljana, 6 December 2005, pp. 42-43.

Against this background, the aim of the German initiative was to reaffirm once more in general terms the common OSCE *acquis* on the rule of law by means of a Ministerial Council Decision, to stress the importance of the topic on the OSCE agenda, while also lending impetus to new concrete activities and projects with the involvement of the participating States and relevant OSCE institutions, where possible.

This was done in the belief that there was a more realistic chance of finding a consensus among the 56 participating States on the topic of the rule of law than on the more controversial topics mentioned above. At the same time, it was an attempt, despite unfavourable conditions, to breathe new life into the OSCE's third dimension as a whole by finding a new "common denominator".

In this context, the proposals and initiatives put forward by Russia's President Dmitry Medvedev, which, among other things, stressed the need to uphold the rule of law in the Russian Federation as a precondition for a positive investment climate, were also viewed as an important signal that could boost an initiative to strengthen the rule of law in the OSCE area.¹⁵

The initiative to seek a Ministerial Council Decision was based upon the assumption that strengthening the rule of law is fundamentally in the self interest of all OSCE participating States. For the negotiating process, this meant that all participating States should be involved in discussions at the earliest possible stage and not simply presented with a fait accompli. It was also important to make clear that this was not a project based on the interests of a single participating State or group of participating States and against the interests of others. Finally, with this approach, winning the support of the other participating States by offering them something in return – e.g. by making compromises in other Ministerial Council documents – was out of the question.¹⁶

Germany's OSCE ambassador presented the notion of a Ministerial Decision on the rule of law to the participating States for the first time at an informal meeting of the Heads of the Permanent Representations to the OSCE in June 2008, where it was, on the whole, positively received. Informal consultations with participating States from various regions were then carried out in the subsequent months.

15 The key statement of this policy on the international stage was perhaps the speech he gave in Berlin on 5 June 2008: *President of Russia Dmitry Medvedev's Speech at Meeting with German Political, Parliamentary and Civic Leaders*, Berlin, 5 June 2008, at: http://www.ln.mid.ru/brp_4.nsf/e78a48070f128a7b43256999005bcb3/c080dc2ff8d93629c3257460003496c4.

16 This was particularly relevant with regard to the important Ministerial Declaration on the Occasion of the 60th Anniversary of the Universal Declaration of Human Rights, cited above (Note 6), the text of which was hotly disputed.

A key challenge for co-operation within the OSCE at this time was the war in Georgia in August 2008, which severely damaged the climate for discussion within the Organization. Nonetheless – based on its view that the OSCE is a forum for discussion that had proved itself in the past precisely under difficult conditions and should therefore not be abandoned in times of crisis – Germany decided to push ahead with its rule-of-law initiative.

Procedurally, it would have been possible to present the first draft of the Ministerial Council Decision in the name of the EU as a whole, as the German initiative had rapidly received widespread general support from within EU circles. After consultations with its EU partners, Germany decided to follow a different procedure: It offered a number of participating States from OSCE regions “West and East of Vienna” the chance of supporting the initiative as “co-sponsors” to make clear that the draft would enjoy the support of a wide range of participating States from a variety of regional and political backgrounds.

As a result, four participating States declared themselves prepared to present the draft alongside Germany: Austria, Belgium, Norway, and Hungary. They are also among the states whose governments actively promote rule of law issues and which possess corresponding competencies in relevant ministries and in their judiciaries. In November 2008, the co-sponsors presented a first draft, which was initially discussed in the Human Dimension Committee in Vienna and then, immediately prior to and during the Ministerial Council Meeting, in the Preparatory Committee (PrepCom) in Helsinki. There, the Finnish OSCE Chairmanship adopted the draft, in the form it had reached as a result of negotiations to that point, as its own; the talks within PrepCom were concluded on 5 December, and the draft was then adopted in the Permanent Council and Ministerial Council.

In its preamble, the Decision reaffirms the existing OSCE commitments on the rule of law while also establishing a reference to underlying United Nations documents on the subject. In the operational part of the Decision, the participating States are called upon to apply the rule of law principle consistently and to contribute to OSCE activities in this area; in this, they should be supported by the executive structures of the OSCE. The decision names thirteen specific areas for intensified operational activities and the mutual exchange of experience.

The decision refrains from giving a general definition of the rule of law. By making explicit reference to relevant UN documents, however, it suggests that the understanding of the rule of law contained in them¹⁷ also applies to the OSCE case.

17 On the concept of the rule of law in the UN, the report of the UN Secretary-General on *The rule of law and transitional justice in conflict and post-conflict societies* (S/2004/616, 3 August 2004, item 6), which was approvingly acknowledged by the General Assembly, states: “The ‘rule of law’ is a concept at the very heart of the Organization’s mission. It refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promul-

Even though the initiative for an OSCE Ministerial Council Decision on the rule of law met with the broad support of the participating States and their willingness for constructive co-operation in principle, the negotiations over the text were nonetheless characterized by intense and heated discussions of individual matters. The key reason for this was almost certainly differences in basic attitudes regarding the significance of the OSCE's third dimension. The following areas were particularly controversial:

Rule of Law in (Post-)Conflict Situations

The Georgian delegation made an interpretive statement to Decision No. 7/08 on the meaning of the rule of law in those parts of the OSCE area affected by unresolved conflicts. During the negotiations, Georgia had made a number of proposals on this topic against the background of the war with Russia in August 2008 and the special situation in the Georgian regions of South Ossetia and Abkhazia following the war.¹⁸

However, because of the consequences of this particular conflict for the OSCE, which goes far beyond Decision No. 7/08, no agreement could be reached – even though it is obvious that the rule of law, democracy, and human rights are particularly endangered during and after armed conflict as well as under the special conditions of unresolved conflict.

The Rule of Law within the OSCE Itself – the Organization's Legal Basis and Lack of Legal Personality

The extent to which Decision No. 7/08 should address the question of the OSCE's lack of legal personality and the Organization's legal basis remained contentious until right before the end of negotiations.

This concerned proposals that the participating States had been discussing for years, first, by providing the OSCE with a foundational document (the "Convention"), to grant it legal personality and the various immunities and privileges that this would entail, and, second, to set down its fundamental goals, principles, and commitments and the structure of its main decision-making bodies in a special document ("Charter" or "Statute").¹⁹

gated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency."

18 ODIHR presented a report on the consequences of the August 2008 War in Georgia to the Ministerial Council in Helsinki with the title "Human rights in the war-affected areas following the conflict in Georgia", the views expressed in which are also supported by the High Commissioner on National Minorities.

19 In this regard, reference is frequently made to the 2005 report of the Panel of Eminent Persons, which makes these proposals in paras 30 a) and b). See Common Purpose – Towards a More Effective OSCE, Final Report and Recommendations of the Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE, 27 June 2006, reprinted

There is still no consensus among the participating States on any of these questions, and especially not on the way the various proposals should relate to each other.²⁰ Under these conditions, Decision No. 7/08 could in no way prejudice the results of the ongoing discussions, particularly since the same Ministerial Council passed a separate decision on strengthening the legal framework of the OSCE.²¹ The formula ultimately agreed upon²² is a compromise that points in a general way to the relationship between the question of legal personality and strengthening the legal foundation of the OSCE, but which simultaneously also leaves room for interpretation.

Domestic and International Aspects of the Rule of Law

One operational focus of Decision No. 7/08 is on practical projects to strengthen structures and institutions underpinning the rule of law within the individual participating States; ODIHR and the OSCE field missions, in particular, are active in this area. Domestic aspects of the rule of law therefore play an important role in this document. However, the negotiations also dealt intensively with the rule of law at the international level, particularly the participating States' commitment to uphold their obligations under international law.

As a result, Decision No. 7/08 underscores fundamental principles such as compliance with obligations under international law and the peaceful settlement of disputes, while also addressing the rule of law at both the national and international levels several times. This mirrors the way the topic is being dealt with in the United Nations context.²³ It also takes account of the interest in the "juridification" of international relations by various means, such as strengthening international criminal jurisdiction.

The initiative launched in large part by Russia's President Medvedev, which aims to reshape Europe's "security architecture" by means of a legally binding treaty between the states involved can also be seen as broadly relevant for the strengthening of the rule of law at the international level, even if it was not expressly mentioned in the negotiations over Decision No. 7/08. The Ministerial Council Meeting in Helsinki was the first time that the Russian initiative was discussed in depth by the foreign ministers of the OSCE

in: Institute for Peace Research and Security Policy at the University of Hamburg (ed.), *OSCE Yearbook* 2005, pp. 359-379.

20 Despite intensive preparation, no agreement could be reached on the draft of a convention that was presented at the OSCE Ministerial Council in Madrid 2007.

21 Organization for Security and Co-operation in Europe, *Sixteenth Meeting of the Ministerial Council*, cited above (Note 6), Decision No. 4/08, Strengthening the Legal Framework of the OSCE (MC.DEC/04/08 of 5 December 2008), pp. 13-14.

22 See the eleventh paragraph of the preamble: "Underlining the importance of providing the OSCE with a legal personality, legal capacity, privileges and immunities and thus strengthening the legal framework of the OSCE", Decision No. 7/08, cited above (Note 7), p. 21.

23 Cf. United Nations General Assembly, Resolution A/RES/62/70, cited above (Note 11).

participating States. Against this background, Decision No. 7/08 avoided prejudicing the discussion process on the future of European security in any way.

The Links between the Rule of Law, Democracy, and Human Rights

The discussions in the course of the negotiations over Decision No. 7/08 on the interlinkages between the rule of law, democracy, and human rights revealed that the participating States had fundamentally different approaches: While some considered human rights protection to be a central element of the rule of law and wished to stress this nexus as clearly as possible, others took a formal, substantively “value-neutral” conception, which sees human rights and democracy as separate concepts that should be treated separately from the rule of law.

As a result, Decision No. 7/08 stresses that these three principles are “inter-linked and mutually reinforcing”.²⁴ This language is taken directly from the United Nations.²⁵ The purpose of this is to make clear that the three elements are not grouped together by chance, but are interdependent: The concept of the rule of law remains incomplete to the extent that it is reduced to the merely formally correct application of laws if these are not created by means of democratic procedures or if they contravene human rights principles.²⁶ For its part, the consistent application of rule of law mechanisms can make a decisive contribution to ensuring that democratic and human-rights principles are observed.²⁷

The decision therefore makes explicit mention of this reciprocal relationship – though it does contain an assurance that the significance of Decision No. 7/08 is not restricted to democracy and human rights per se, but concerns the rule of law in a broader sense with its various cross-dimensional associations.

The Significance of the Rule of Law in the Three OSCE Dimensions and the Balance between Them

Most project-based OSCE activities in the area of the rule of law concern the third dimension – for instance, projects to ensure that the police observe human rights or to strengthen rule of law principles in the area of criminal

24 Decision No. 7/08, cited above (Note 7), p. 20, fifth paragraph of the preamble.

25 See Resolution A/RES/62/70, cited above (Note 11), para. 3 of the preamble.

26 The Nazi “Race Laws” provide a graphic – and terrifying – example.

27 E.g. via effective oversight by the courts to ensure that the actions of the executive branch accord with the fundamental rights and freedoms of affected citizens, or by means of judicial mechanisms to examine electoral and legislative procedures, such as procedures designed to allow a constitutional court to examine compliance with norms.

justice. Ministerial Council Decision No. 7/08 names some of these topics explicitly.²⁸

In general, however, the Decision has been framed to focus less on specific substantive issues than on strengthening mechanisms and procedures for the rule of law. It assumes that effective judicial oversight of the activities of the state has repercussions on all three OSCE dimensions, i.e. on more than democracy and human rights issues in a narrow sense. Many aspects named in the operational part of the decision – e.g. the independence of the judiciary and the effective administration of justice,²⁹ or awareness raising for rule-of-law issues in law enforcement and penitentiary systems³⁰ – thus concern primarily the institutional strengthening of the relevant organs of state in each case, independently of specific substantive issues.

The significance of the rule of law for aspects of the second dimension is also expressly made clear, particularly with regard to economic activities³¹ but also in terms of environmental protection.³² Several aspects are also touched upon by the fight against corruption, which is identified as a separate area.³³ Effective oversight of the administration by the courts can contribute decisively to preventing corruption, thereby promoting good governance as a whole. Furthermore, during the negotiations over Decision No. 7/08, it became clear that there was also interest among the participating States in addressing the topic of corruption within the judiciary itself.

Finally, it was agreed during the negotiations on the text of the decision to include in it a general reference to the significance of the rule of law in the politico-military dimension,³⁴ to which were added elements such as a call for states to adhere to the peaceful settlement of disputes.³⁵ By this means, an appropriate balance between the three dimensions was to be assured.

The Role of ODIHR, the OSCE Field Missions, and Other Actors

ODIHR and the field missions are likely to be the most important operational actors in the OSCE's project work in relation to the rule of law. But other institutions, such as the High Commissioner on National Minorities, and various working units in the OSCE Secretariat, such as the Strategic Police Matters Unit (SPMU) and the Special Representative for Combating Trafficking in Human Beings, are also concerned with promoting the rule of law in the broader sense.

28 Cf. para. 4 of the operational part of the Decision, p. 21, bullet points 1, 4, and 5.

29 Cf. *ibid.*, bullet point 1.

30 Cf. *ibid.*, bullet point 8.

31 Cf. *ibid.*, bullet point 6.

32 Cf. *ibid.*, bullet point 7.

33 Cf. *ibid.*, p. 22, bullet point 13.

34 Cf. *ibid.*, p. 20, para. 7 of the preamble.

35 Cf. *ibid.*, p. 21, para. 4 of the operational part, bullet point 3.

The disagreement between the participating States on how to evaluate the activities of ODIHR and the field missions was revealed in the negotiations over Decision No. 7/08, with some participating States proposing that only these two OSCE actors be explicitly foregrounded, and others that none should.

The compromise that was ultimately achieved³⁶ makes a general reference to “relevant OSCE executive structures”, singling out for attention the Secretariat, ODIHR, and the field operations. The role of the OSCE Parliamentary Assembly is also mentioned³⁷ – rightly so, as promoting the rule of law, both by shaping legislative procedures and via the contents of the laws they pass, is one of the most fundamental of all parliamentary tasks.

Reference is explicitly made to ODIHR’s 2008 annual Human Dimension Seminar on the issue of constitutional justice, which had offered an opportunity for the intensive exchange of experiences on various sorts of mechanisms for checks and balances performed by constitutional courts³⁸ – a core element of the rule of law.

Implementation and Outlook

A concrete operational aspect of Decision No. 7/08 was its call to organize a seminar on the rule of law in 2009 that would enable participating States to exchange best practices.³⁹ This task corresponded to the priorities of the 2009 Greek OSCE Chairmanship, which has made the rule of law one of its focuses in the third dimension.

As a result, ODIHR’s annual Human Dimension Seminar,⁴⁰ which was held in May 2009, was dedicated to the rule of law. While the participating States attempted to specify the agenda of this seminar, something of the contentiousness that had characterized the negotiations on Decision No. 7/08 returned – for instance the question of whether and to what extent topics such as human rights protection, in general, and combating and preventing torture, in particular, should be dealt with.

The special focus of the seminar was “the effective administration of justice”, i.e. the institutional preconditions that have to be fulfilled for the rule of law to function. Subsidiary topics included the independence of the judiciary, judicial oversight of administrative decisions, and due process of

36 Cf. *ibid.*, p. 20, para. 8 of the preamble.

37 Cf. *ibid.*

38 Cf. *ibid.*, p. 20, para. 9 of the preamble, acknowledging that constitutional justice does not require the existence of a constitutional court *per se* – the task may be performed equally effectively by other (ordinary) courts or other institutions.

39 Cf. *ibid.*, p. 22, para. 5 of the operational part.

40 Permanent Council Decision 476 from 2002 on Modalities for OSCE Meetings on Human Dimension Issues makes arrangements for this annual seminar, cf. OSCE, Permanent Council, Decision No. 476, *Modalities for OSCE Meetings on Human Dimension Issues*, PC.DEC/476, 23 May 2002, Annexes 2 and 3.

law with regard, in particular, to transparency and the enforcement of decisions, as well as the accountability of state institutions and officials. Further topics discussed included human rights protection, including the prevention of torture.⁴¹

As intended in the original initiative for a Ministerial Council Decision, the focus of the seminar was more on the exchange of information at expert level and less on highly contested discussions of the implementation of concrete commitments.⁴² These discussions are usually held at the annual two-week-long Human Dimension Implementation Meeting. In any case, it remains vital to ensure that the topic of the rule of law retains a prominent place on the OSCE's agenda. Ministerial Council Decision No. 7/08 has contributed to doing just that.

41 Cf. OSCE, Human Dimension Seminar, *2009 Human Dimension Seminar, Strengthening the rule of law in the OSCE area, with a special focus on the effective administration of justice*, Warsaw, 12-14 May 2009, Annotated Agenda, CIO.GAL/57/09, 5 May 2009.

42 A Consolidated Summary and further information on this seminar is available at: http://www.osce.org/conferences/hds_2009.html.

The OSCE's Comprehensive Approach to Border Security and Management

Introduction

The OSCE's approach to border security and management is embedded in the Organization's notion of comprehensive and co-operative security, which can be traced to the 1975 Helsinki Final Act, the founding document of the OSCE. It outlined for the first time the major principles and commitments of the OSCE, then still called the CSCE (Conference on Security and Co-operation in Europe), including those provisions pertaining to the three "baskets of security", later renamed the three dimensions. The complementary and interconnected nature of these three dimensions – the politico-military, economic and environmental, and human dimensions – are also reflected in the way the OSCE approaches issues related to border security and management.

While the Helsinki Final Act already provided the basic parameters for comprehensive security and co-operation across national boundaries in the three dimensions, several documents agreed upon by the participating States over the following thirty years addressed in more detail a number of risks and challenges to security and the appropriate mechanisms of co-operation to manage them. Major documents included the Charter of Paris for a New Europe (1990), the Charter for European Security (1999), the Bucharest (2001) and Porto (2002) Ministerial Council Documents, and the Maastricht Ministerial Council's "OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century" (2003).

From the OSCE's perspective, security threats and challenges emanating from porous borders and weak border management remain a major concern to the Organization's participating States and their citizens. Among these challenges are illicit trafficking of human beings, narcotics, and weapons, illegal migration, terrorism, and other forms of transnational organized crime, such as the increase in criminal networks and corruption. In

Note: The views presented here are those of the authors and do not necessarily reflect those of the OSCE Secretariat or OSCE participating States. The authors would like to thank their colleagues, Henry Bolton, Senior Border Issues Advisor, and especially Jerome Bouyjou, Programme Management Officer, and Johann Wagner, Border Issues Advisor, from the OSCE Conflict Prevention Centre's Operations Service/Borders Team; Dimitar Jalnev, Programme Co-ordinator, OSCE Secretariat/Action Against Terrorism Unit, and Raul Daussa, Environmental Programme Officer, Office of the Co-ordinator of OSCE Economic and Environmental Activities. The authors would also like to acknowledge the assistance received from the Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings and the Strategic Police Matters Unit, among others.

some cases, the demarcation/delimitation of borders also poses challenges. Unresolved conflicts, armed confrontations, and other forms of instability can also have an impact on the border security of neighbouring states and local communities. At the same time as the Organization has to respond to these security challenges affecting its borders, the OSCE is also committed to ensuring the free and secure movement of people and goods across borders and to enhancing economic development and prosperity by facilitating regional cross-border co-operation. In many ways, the OSCE has to maintain a fine balance: It must ensure security while not undermining its commitment to promote economic and social well-being among its participating States.

Among the earliest documents directly related to border security and management was Decision IX on “The CSCE and Regional and Transfrontier Co-operation” in the 1992 Helsinki Document,¹ which welcomed activities involving development and increased contacts at the governmental, regional, and local levels. Other documents followed suit, including the “Elaboration of an OSCE Border Security and Management Concept”, adopted at the 2004 Sofia Ministerial Council,² and the “Border Security and Management Concept – Framework for Co-operation by the OSCE Participating States”,³ agreed upon at the 2005 Ministerial Council in Ljubljana, Slovenia. The Border Security and Management Concept (BSMC) is one of the major milestone documents for border-related activities in the OSCE, laying down the basic principles, political commitments, and obligations of participating States regarding border security and cross-border co-operation. The underlying security challenges targeted through the BSMC pertain primarily to illicit trafficking of human beings, narcotics, and weapons, illegal migration, transnational organized crime, and terrorist activities.

Specific decisions on issues such as combating terrorism, trafficking, and other forms of transnational crimes as well as economic governance were also adopted over time, defining the role of OSCE institutions and bodies, units of the Secretariat, and field operations in the comprehensive approach to border security and management.⁴ All of these efforts have contributed to

1 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. 701-777, here: p. 763.

2 Decision No. 2/04, Elaboration of an OSCE Border Security and Management Concept, MC.DEC/2/04 of 7 December 2004, in: Organization for Security and Co-operation in Europe, *Twelfth Meeting of the Ministerial Council*, 6 and 7 December 2004, MC.DOC/1/04, Sofia, 7 December 2004, pp. 16-18.

3 Border Security and Management Concept – Framework for Co-operation by the OSCE Participating States, MC.DOC/2/05 of 6 December 2005, in: Organization for Security and Co-operation in Europe, *Thirteenth Meeting of the Ministerial Council*, 5 and 6 December 2005, Ljubljana, 6 December 2005, pp. 9-15.

4 For an overview of specific provisions related to the relevant areas, such as combating illicit trafficking of small arms and light weapons, action against terrorism, police matters, combating trafficking in human beings, and economic and environmental governance, see OSCE Secretariat, Conflict Prevention Centre/Operations Service, *The OSCE Concept of Comprehensive and Co-operative Security*, SEC/GAL/100/09, 17 June 2009.

one objective – the enhanced management of borders in all its aspects through extensive co-operation among the OSCE’s participating States, and with the assistance of all relevant parts of the OSCE structure. In particular, the OSCE supports Central Asian participating States on a number of economic and environmental issues that require regional and border co-operation, such as cross-border trade, promoting efficient use of water and energy resources across borders, improving cross-border transportation, and improving customs services.

The OSCE’s comprehensive approach to border security and management also came to the forefront of public attention when, in October 2008, the Finnish Chairmanship organized a seminar entitled “A comprehensive Approach to Border Security and Management in the OSCE Area”. The seminar addressed issues across the three dimensions, all of which had a border-related component. In the politico-military dimension, the seminar focused on the benefits of a comprehensive approach in combating terrorism and arms proliferation; in the economic and environmental dimension, enhancing the effectiveness of international and regional co-operation was explored; and on the human dimension side, the seminar examined the issue of ensuring a gender-based approach to border security and management and in identifying victims of human trafficking.⁵

When it comes to addressing and managing challenges to the borders of the OSCE participating States, Afghanistan remains of pivotal concern, as porous borders between Afghanistan and Central Asian states are likely to continue to jeopardize security and stability in the region. To this effect, the OSCE participating States adopted, in November 2007, Ministerial Council Decision No. 4/07 on “OSCE Engagement with Afghanistan”,⁶ pledging support to enhance the OSCE’s involvement with Afghanistan across a spectrum of activities and to strengthen the management of borders between the Central Asian participating States and Afghanistan.

To illustrate the OSCE’s comprehensive approach to border security and management, this chapter will focus in more detail on the following: the 2005 Border Security and Management Concept – one of the major milestone documents underlying the OSCE’s border-related activities over the last few years; the implementation of the comprehensive concept of border security and management; and the issue of the OSCE’s engagement with Afghanistan, with a particular focus on the border security and management of the Central Asian participating States.

5 See the agenda of the seminar, PC/GAL/150/08, 17 October 2008.

6 Decision No. 4/07, OSCE Engagement with Afghanistan, MC.DEC/4/07/Corr.1 of 30 November 2007, in: Organization for Security and Co-operation in Europe, *Fifteenth Meeting of the Ministerial Council*, 29 and 30 November 2007, Madrid, 30 November 2007, pp. 19-22.

The major milestone document for OSCE border-related co-operation is the Border Security and Management Concept (BSMC). Adopted in 2005, it contains provisions for OSCE contributions across the OSCE's three dimensions of security, reflecting the Organization's comprehensive and co-operative approach to security. In essence, the BSMC entails four key provisions: It provides the OSCE with a mandate for promoting wide-ranging cross-border co-operation between border services, customs authorities, law enforcement and other competent national structures; it allows for the various segments of the OSCE executive structures – the Secretariat, the field operations, and institutions – to work together and to assist and support the participating States in implementing the BSMC; it calls for co-operation with international organizations and partners, to be guided by complementarity, comparative advantage, and added value; and it provides a list of possible contributions that aim at making the BSMC operational.

With the BSMC, the participating States reaffirmed the obligations and commitments already undertaken at the global, regional, subregional, and bilateral levels. The participating States also agreed to “promote co-operation between their border services, customs authorities, agencies issuing travel documents and visas, and law enforcement and migration agencies, as well as other competent national structures”.⁷ The BSMC acknowledges the OSCE's role as the appropriate political framework for border-related commitments and activities, to be supported by its structures and institutions, including the Organization's contribution based on “its concept of common, comprehensive, co-operative and indivisible security”.⁸

Recognizing that there is no uniformity of borders in the OSCE area, one of the principles of co-operation is that each participating State “has the sovereign right to choose how to secure and manage its borders, taking into account relevant political, military, economic and social considerations”.⁹ In this respect, each border has a particular character that may call for specific policy choices. Other principles of co-operation affirm that the enhancement of common prosperity and security can be accomplished by increasing beneficial cross-border movement; that co-operation should proceed at the bilateral, regional, and multilateral levels; and that for the purpose of generating solutions with added value benefiting all participating States, cross-border dialogue, transparency and confidence-building are essential components.

The particular benefits to be gained from cross-border co-operation are outlined in the form of eight common objectives, comprising the promotion of free and secure movement of persons, goods, services, and investments;

⁷ Border Security and Management Concept, cited above (Note 3), p. 10.

⁸ Ibid., p. 11.

⁹ Ibid.

the reduction of the threat of terrorism, including by preventing cross-border movement of persons, weapons, and funds connected with terrorist and other criminal activities; the prevention and repression of transnational organized crime, illegal migration, corruption, smuggling, and trafficking in weapons, narcotics, and human beings; the promotion of high standards in border services and competent national structures; the promotion of the dignified treatment of all individuals crossing borders; the creation of beneficial conditions for economic, social, and cultural development in border territories; the fostering of common spaces of freedom, security, and justice in the OSCE area; and ensuring the security of international transport routes for the supply of commodities.

In the spirit of the “Platform for Co-operative Security” (1999), the BSMC underlines the importance of co-operation with other international regional and subregional organizations, mandating “political and operational co-ordination”,¹⁰ with an emphasis on complementarity, comparative advantage, and added value that can be achieved through concerted action and joint deployment of resources.

Making activities concrete enough so that all participating States can benefit is another underlying element of the BSMC. Such concrete actions, in other words the implementation of the provisions of BSMC on the ground, have taken two forms: policy support and advice, with a focus on assisting participating States, as for example with their national border legislation; and capacity building, such as imparting practical skills and training to specific activities that enhance border security and management. The BSMC document also outlines a list of possible OSCE contributions, including the following:

- facilitation (e.g. political dialogue between participating States, confidence-building measures in border areas, technical dialogue);
- general forms of contribution such as technical assistance in the development and implementation of national strategies and action plans, or in the development and implementation of training programmes;
- specialized assistance in combating terrorism, transnational organized crime, illegal migration, and illicit trafficking of narcotics, human beings, and nuclear, biological, chemical, and conventional weapons and their means of delivery, as well as hazardous waste (e.g. crime-specific training for border services, technical and non-technical means of detection of illegal or false documents, promotion of implementation of multilateral international norms);
- free and secure movement of persons (e.g. technical assistance and expert advice on exit and entry procedures);

10 Ibid., p. 12.

- activities related to economic and environmental issues, such as sharing best practices on border-crossings and customs procedures for import, export, and transit; fostering economic cross-border co-operation and facilitation of local border trade; facilitation of cross-border co-operation on environmental issues and in case of natural disasters or serious accidents.

*The Border Security and Management Concept at the Operational Level:
Comprehensive and Co-operative Security in Practice*

Among the main OSCE structures and institutions involved in the implementation of the BSMC are the Conflict Prevention Centre's (CPC) Operations Service/Borders Team, the Office of the Co-ordinator for Economic and Environmental Activities (OCEEA), the Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, the Action against Terrorism Unit (ATU), and the Strategic Police Matters Unit (SPMU) as well as the Office for Democratic Institutions and Human Rights (ODIHR). Moreover, many of the border-related activities are implemented in the host countries with the assistance of OSCE field operations. Co-operation and co-ordination with other international organizations and partners also takes place, as stipulated in the BSMC.

The major focal point for all border security and management issues is the CPC's Operations Service/Borders Team, located within the OSCE Secretariat in Vienna. The Borders Team works closely with all OSCE structures and field operations. It develops and co-ordinates specific border projects in co-operation with OSCE field operations and provides OSCE assistance on border security- and management-related issues with other relevant international agencies. It also responds to requests from OSCE participating States for comprehensive national and regional assessments and concrete assistance in strengthening their border security. Moreover, the Borders Team maintains the OSCE Border Security and Management National Focal Point Network, the establishment of which was mandated by Permanent Council Decision No. 757 (2006)¹¹ to consist of the following: National Focal Points in the participating States and a contact point in the OSCE Secretariat. The primary objective is to "facilitate information-sharing between participating States on border security- and management-related issues".¹²

The BSMC is implemented through a variety of activities and projects that include, for example, assessment missions, exchange of information and best practices, specific training courses, workshops, and conferences, tech-

11 Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 757, *Terms of Reference for the OSCE Border Security and Management National Focal Point Network*, PC.DEC/757, 5 December 2006.

12 Ibid., p. 2.

nical assistance in enhancing border structures, strengthening international exchange networks, and other capacity-building initiatives. The following examples, selected from across the OSCE area, provide an overview of the wide-ranging, cross-cutting, and cross-dimensional nature of border-related activities. They also highlight some of the achievements of the OSCE, all within a relatively short period of time, demonstrating the close co-operation among many actors inside as well as outside the Organization.

Central Asia remains the focus of OSCE border-related activities and has also been declared the priority region for the 2009 and 2010 OSCE Chairmanships. The region is prone to a multitude of cross-border security threats and challenges, many of which also have a direct impact on other OSCE participating States. These include narcotics trafficking, particularly of opiates originating from Afghanistan; other forms of illicit trafficking such as the smuggling of small arms and light weapons; possible cross-border terrorist activities; not to mention economic and environmental challenges associated with sustainable development, secure transport, border crossing facilitation, and trans-boundary water management and co-operation. Lack of demarcation/delineation of borders in the region also remains a challenge.

A few specific examples will demonstrate the nature and scope of the assistance provided by the OSCE, at both the policy-relevant and capacity-building levels. In 2006 and 2007, for example, the CPC's Borders Team conducted national assessments on border security and management in Tajikistan and Kyrgyzstan, as requested by the two participating States. These assessments resulted in concrete recommendations and subsequent technical assistance projects. The Borders Team also supported the drafting of Tajikistan's "National Border Management Strategy", which was finalized in the spring of 2009 and currently awaits adoption by the Tajik government. Other OSCE projects have focused on building the surveillance capacities of border guards and customs officials in the region.

Field operations are also in the frontline of initiating and implementing projects that address border-related issues, often with other international organizations. For example, the OSCE Centre in Bishkek has been involved in border management projects since 2004. In 2008, the Centre conducted an interesting project called "Positive peace building in Jalalabad and Batken provinces" along the Kyrgyzstan-Uzbekistan and Kyrgyzstan-Tajikistan borders, aimed at improving local governance, cross-border conflict prevention mechanisms, and cross-border dialogue among border agencies. The OSCE Centre in Astana has been implementing a project entitled "Enhancing border control on the land border of Kazakhstan", since 2007, in co-ordination with the International Organization for Migration (IOM), the EU Border Management Programme in Central Asia (BOMCA), and the Border Service of Kazakhstan, focusing on infrastructural capacity building and training.¹³

13 Cf. Border Security and Management National Focal Point Network, *OSCE Newsletter*, Issue 4, September 2008.

In 2008, the OSCE Secretariat's ATU, together with the CPC's Borders Team, the OSCE Centre in Ashgabat, and the Austrian Federal Ministry for the Interior, conducted a train-the-trainers course for the detection of forged documents. The training is part of the ATU's comprehensive assistance programme for travel document security. Courses have also been held in the Kyrgyz Republic, and follow-up activities are continuing in 2009. Future training courses on travel document security are also planned for Tajikistan.¹⁴ In March 2009, the OCEEA, together with the OSCE Centre in Astana, the United Nations Economic Commission for Europe (UNECE) Transport Division, and the Customs Committee of Kazakhstan, organized a seminar on improving the implementation of international legal instruments to facilitate cross-border trade and transport operations¹⁵ on the basis that "cumbersome customs and border-crossing procedures create an additional burden for landlocked developing countries in Central Asia".¹⁶ In June 2009, the OSCE's SPMU conducted training on basic precursor identification and backtracking investigations in Turkmenistan with law enforcement officers, including border police and customs officers.

The South Caucasus also demonstrates well the OSCE's involvement in border-related activities. Trafficking of narcotics and human beings, illegal migration, and the illicit movement of dual-use commodities are among the major security challenges in the region. Cross-border co-operation is also hampered by the unresolved conflicts and strained relations among South Caucasus participating States.

With regard to addressing border-related security issues in the context of armed conflict, the OSCE Border Monitoring Operation (BMO) was an important preventive and confidence-building measure. Established in 1999, the BMO deployed unarmed border monitors in Georgia to observe and report on border crossings at the Dagestan, Ingush, and Chechen segments of the border between Georgia and the Russian Federation. Following their withdrawal in 2005, the OSCE Mission to Georgia launched the OSCE Transitional Institutional Support Programme (TISP) in the region, which has focused on border co-operation and the sharing of experiences in Georgia, Turkey, Armenia, and Azerbaijan.¹⁷

There are several notable examples of activities addressing border-related issues within the BSMC context in the South Caucasus. In the area of

14 Cf. *ibid.*

15 Cf. Organization for Security and Co-operation in Europe, Office of the Co-ordinator of OSCE Economic and Environmental Activities, *Activity Report June 2008 – May 2009*, May 2009.

16 Organization for Security and Co-operation in Europe, Press Release, *OSCE hosts seminar on facilitating Kazakh cross-border trade, transport*, SEC.PR/100/09, 17 March 2009.

17 In August 2008, the OSCE also increased the number of military monitoring officers in the OSCE Mission to Georgia as part of the Organization's response to the armed confrontations in the same month. The operation ended with the closure of the Mission to Georgia on 30 June 2009.

trafficking in human beings, the EU has funded a multi-year anti-trafficking project that is being jointly implemented by the International Labour Organization (ILO), the International Centre for Migration Policy Development (ICMPD), and the OSCE. The project provides assistance to Armenia, Azerbaijan, and Georgia in the development of a comprehensive response to trafficking in human beings, primarily through the establishment of a National Referral Mechanism (NRM), which aims to assist and protect victims of trafficking. Such efforts are further supported by specific interagency and cross-border co-operation initiatives.¹⁸

Enhancing cross-border co-operation in the South Caucasus is also moved forward by means of joint activities involving Georgia, Armenia, and Azerbaijan. The OSCE Office in Yerevan has facilitated cross-border co-operation between Armenian and Georgian border and customs officials, as was the case in October 2008, when international, Armenian, and Georgian experts conducted training on combating the smuggling of narcotics, nuclear materials, trafficking in human beings, and detection of forged documents. The OSCE Office in Baku assisted the host country in developing programmes to reform the border security and management system and to fight trafficking in human beings, and in training border guards and customs officers. All of these activities were conducted in co-operation with the CPC's Borders Team, ODIHR, the OCEEA, and the OSCE Mission to Georgia.¹⁹

Unfortunately, the closure of the OSCE Mission to Georgia on 30 June 2009 is likely to have a negative impact on further facilitating cross-border co-operation in the region. The Mission was instrumental in supporting the Georgian Border Services and in implementing, in co-operation with the OSCE Offices in Baku and Yerevan, the TISP, launched in May 2008, which operated within the context of the BSMC.

The OSCE also performs relevant activities in *Eastern Europe and South-Eastern Europe*. The ATU, for example, in co-operation with Interpol, has developed a project aimed to deploy Interpol's Mobile Interpol Network Database (MIND) in the Republic of Moldova, allowing first-line border-control law-enforcement end-users real-time access to Interpol's database. In its capacity-building efforts aimed at combating illegal transboundary transportation of hazardous waste, the OCEEA has been active in projects that increase the capacity for prevention and detection of illegal waste transportation in Ukraine, Moldova, and Belarus. Further cross-border support is also provided, primarily through the field presences, including training aimed at reforming and increasing the efficiency of the State Border Guard Services of Ukraine.

In South-eastern Europe, the OSCE Secretariat and OSCE field operations have been instrumental over many years in efforts to promote and fa-

18 Cf. OSCE Efforts to Strengthen Border Security and Management in the South Caucasus, *OSCE Newsletter*, Issue 5, March 2009.

19 Cf. *ibid.*

cilitate cross-border co-operation, even prior to the decision on the BSMC in 2005. The OSCE, in partnership with the European Union, NATO, and the Stability Pact (the Ohrid Border Process Partner Organizations) supported the “Ohrid Border Process”, a joint effort of five countries in South-eastern Europe (Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, and Serbia). The four Partner Organizations addressed sensitive border-related issues through relevant initiatives such as the transition process (leading up to full military withdrawal and the handing over of responsibility for border control to specialized professional border police services in accordance with European standards), the harmonization of integrated border management standards, joint meetings for cross-border information sharing or cross-border co-operation between national border agencies, and anti-organized crime units.

While the Ohrid Border Process officially ended in 2007, the OSCE, in particular through its field operations, continues to support cross-border co-operation and other border-related activities carried out by the various countries in the region and their respective border agencies. This is demonstrated, for example, by successful joint patrolling programmes between the countries in South-eastern Europe, and courses to train border police and customs officers to fight international car theft and to recognize false travel documents.

On a more general note, the extensive network of actors working together in the field and at headquarters level, and their collective institutional experience on border-related issues is also evident in the development of a collaborative project, the *Handbook of Best Practices at Border Crossings*. This handbook, to be published in 2010, is being developed by the OCEEA, in co-operation with the UNECE, and with the support of the CPC’s Borders Team, the ATU, and other relevant units of the Secretariat. Preparatory meetings in Minsk and Bishkek in October 2008 were part of the initial planning phase. The objective of the handbook is to assist OSCE participating States in creating more efficient border and customs policies, particularly states that are land-locked and have limited access to global markets. Intended as a reference work for national policy-makers, senior customs and border guards/police officials, and heads of regional customs chambers/border crossings, the publication will focus on border-crossing points along roads and railways, as well as ports and airports. Concrete examples from across the OSCE area will provide guidance on how border-crossing points can be made more efficient, and on how countries can promote trade and transport to enhance regional economic development and prosperity, while at the same time reducing opportunities for illicit trafficking, terrorist activities, transnational crime, and corruption.²⁰

It should be also emphasized that the implementation of politico-military commitments, including those on border security- and management-

20 For further details, see the website of the Office of the Co-ordinator of OSCE Economic and Environmental Activities at: <http://www.osce.org/eea/34787.html>.

related issues, is reviewed each year from a cross-dimensional perspective at the OSCE Annual Security Review Conference (ASRC) held by the OSCE Chairmanship. The 2008 ASRC, for example, focused on transnational challenges to security in the OSCE area, exploring the implementation of OSCE decisions on combating terrorism, illicit trafficking of weapons and narcotics, and the fight against trafficking, and assessing the operationalization of the BSMC so far.

OSCE Engagement with Afghanistan – Another Phase in the OSCE’s Efforts to Promote Border Security and Management

The relevance of the BSMC is particularly crucial when it comes to the OSCE’s engagement with Afghanistan. Although not a participating State, Afghanistan has had the status of an OSCE Partner for Co-operation since 2003. Following the adoption of Ministerial Council Decision No. 4/07,²¹ the OSCE’s engagement with Afghanistan has assumed a more structured and focused approach. This decision identifies the need for OSCE activities in three areas: border security and management, policing, and combating trafficking. Throughout 2008, the OSCE participating States considered the adoption of a “programme of activities” related to the decision, outlining sixteen projects developed by the Secretariat. Although no consensus was reached on the implementation of the package containing the sixteen projects (a particular problem was that two of them were to be initiated on Afghan territory, something that was opposed by several delegations), some of the projects have already been launched, with additional ones expected to be implemented in the near future. The package includes project proposals to strengthen border security and management, to facilitate cross-border co-operation, and to enhance national law enforcement capacities – with the inclusion of Afghan participants in such activities. All of the projects are to take place first and foremost in Central Asia.

The implementation of these activities started in 2009 with ongoing patrolling and customs projects in Tajikistan and the design of new border initiatives in Kyrgyzstan, Turkmenistan, and Tajikistan, which are to involve Afghan border officials. The Bishkek customs training facility project, which started in early 2009, is a 27-month initiative that involves the creation of a national customs training facility in Kyrgyzstan. The main areas of the project are curriculum development, infrastructure renovation, and course implementation, as well as the provision of comprehensive institutional and

21 Decision No. 4/07, *OSCE Engagement with Afghanistan*, cited above (Note 6). For further elaboration on this decision and its implementation, see Marc Perrin de Brichambaut, *OSCE Engagement with Afghanistan*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2008*, Baden-Baden 2009, pp. 361-368; and Alice Ackermann, *Engaging with Afghanistan – An OSCE Perspective*, in: *Defence Nationale et Sécurité Collective*, January 2009, pp. 41-45.

systematic training of the Kyrgyz Customs Service. The expected impact of such training is to guarantee collection of customs revenue, which would increase state income, and to combat narcotics trafficking.

The OSCE Border Management Staff College in Dushanbe, Tajikistan, which was launched on 27 May 2009, could be considered the OSCE's flagship project in the field of border security and management, as it constitutes a long-term effort in institution- and capacity-building that is expected to lead to a harmonization of border standards and procedures. The Staff College's activities are co-ordinated by the OSCE Office in Tajikistan and the CPC's Borders Team, with the Senior Border Issues Advisor also representing the OSCE Secretariat on the academic advisory board. Its objectives include enhancing senior managers' knowledge of the border security and management agencies of the OSCE participating States and Partners for Co-operation and promoting exchange of information and co-operation; functioning as a centre for research and development that will link the staff college to border management training and research institutes in the OSCE area; and facilitating an outreach programme of workshops and seminars within Central Asia that will support cross-border and inter-agency co-operation by means of the exchange of information, lessons learned, and best practices. At present, the Staff College will conduct four security and management staff courses per year for current and potential senior managers from border agencies (border guard, border police, and customs) from OSCE participating States and Partners for Co-operation, including Afghanistan.²²

Concluding Remarks: Taking the OSCE Agenda on Border Security and Management Forward

It is expected that the Kazakh Chairmanship in 2010 will further enhance the OSCE's engagement in Central Asia, with an emphasis on border security- and management-related initiatives, including economic and environmental activities. While the priorities of the 2010 Chairmanship have not yet been publicly announced, they are likely to include enhancing good governance at border crossings, strengthening the security of land transportation, and facilitating international transport. Continued support for Afghanistan will also be an important issue for the Kazakh Chairmanship, especially if the security situation in northern Afghanistan were to deteriorate further.²³

The OSCE has already achieved a great deal in the area of border security and management, considering that the BSMC was only adopted at the end of 2005. And it is well-placed to further enhance its engagement in this field.

22 Cf. The OSCE Border Management Staff College: A flagship project takes off, in: *OSCE Magazine* 2/2009, pp. 7-8.

23 Cf. also Kairat Abdrakhmanov, Potential Kazakh Chairmanship and Agenda, in: Daniel Warner (ed.), *The OSCE at a Turning Point: OSCE Chairmanship and Other Challenges*, PSIO Occasional Paper 4/2007, Geneva.

The key to this is the Organization's approach to comprehensive and co-operative security, which is reflected in the cross-dimensional nature of the BSMC as well as in its co-operative approach towards the implementation of activities – whether working with actors inside or outside the Organization. Hence, border security and management issues of all kinds across all three dimensions and all the OSCE's regions can be addressed in ways that are complementary.

Other inherent advantages of the OSCE in carrying forward the border security- and management-related agenda include the following: a well-established network of international partners, essential for sharing expertise and the joint funding of programmes and projects; the OSCE's extensive field presences, allowing implementation of activities across the entire OSCE area and securing national ownership of the process; an established consensus by participating States that cross-border threats and challenges must be addressed for the purpose of common security and stability across the OSCE area – including the readiness of participating States to commit voluntary contributions in addition to their unified budget contributions; the frequent exchange of lessons learned and best practices across regions as a result of the variety of border systems and standards in the OSCE area; and the facilitation of dialogue across borders – between national governments, border and law enforcement agencies, and, most importantly, local communities – thus giving also a human face to cross-border co-operation.

Police Reform as a “Solicitous Siege” – International Actors and Local Subversion in the Balkans

The police forces of the Balkans are considered to be in need of reform.¹ After 50 years of state socialism, the subsequent violent collapse of Yugoslavia, and the upheavals of transition, local police forces demonstrate numerous failings to Western eyes. They appear as politicized, corrupt, and ineffective, and their reform is therefore regarded as a matter of urgent necessity. They need to be obliged to conform with the rule of law and Western standards so that the Balkan countries may fulfil vital preconditions for entry to the EU. This assessment belongs not only to the discourse of universities and think tanks calling for security sector reform in South-eastern Europe. International organizations also stress the need for police reform. Likewise, statements made by interior ministries and police authorities in the region also underline the priority of reforms to enable deeper integration with Euro-Atlantic structures. This agreement can be regarded as a reform consensus.

The reorganization of the police has become a widespread concern. This is apparent in the multitude of international actors who are present in the Balkans. The OSCE, EU, UN and many other actors are involved in such a vast array of projects and programmes that it is hard to achieve an overview. This massive presence can be considered as a “solicitous siege”² that has turned police reform into a highly internationalized endeavour.

I seek to analyse this endeavour in detail. My argument runs as follows: The reform of the police in the Balkans, for which a broad consensus exists, is in fact a competitive process in which international actors compete for influence in a narrow field. At the same time, the policy of reform has unintended local consequences, in the form of practices of subversion and instrumentalization. The result is a contradictory configuration of actors and an expansion of agencies and organizations. This dynamic can be considered as part of the increasing internationalization of bureaucratic domination.

The aim of my contribution is to analyse the interplay between external actors as well as the interplay between them and the local police forces. Internationalized police reform always takes shape in concrete local contexts and can only properly be observed there. Analytically, however, two distinct fields of action can be distinguished: the local field of police forces, on the

1 The Balkans or South-eastern Europe are considered here to encompass the successor states of the former Yugoslavia together with Albania.

2 After the novel *Fürsorgliche Belagerung* by Heinrich Böll (published as *Safety Net* in English).

one hand, and the international field of police reform, on the other. Each of these two fields of action has its own logic. However, they are not necessarily separate in terms of space and have a reciprocal effect on each other. In the following sections, this will be examined in greater detail, with the help of theorems of Pierre Bourdieu, which make it possible to grasp the logic of these fields conceptually. By means of this approach, I try to illustrate the functioning and effects of the policy of reform with reference to the cases of the former Yugoslav Republic of Macedonia and Albania. The contribution concludes with some critical observations regarding the problems and prospects of international police reform.

The Police and Police Reform: The Logic of Two Bureaucratic Fields

According to Bourdieu's theory of practice, every area of society – religion, science, art, bureaucracy, etc. – can be understood as a field of action.³ All actors attempt to gain an advantageous position in the field. The extent to which they can achieve this depends upon how well they are supplied with means of power, which Bourdieu understands as “capital”. Alongside classical economic capital in the form of money or the means of production, social capital in the form of connections and personal relations, and cultural capital in the form of education and academic titles also play a decisive role. All actors in a field are equipped with various quantities and kinds of capital. Bourdieu considers each field to be a “playing field”, with the types of capital representing stakes that are up for grabs in a competition over their distribution and acquisition.⁴ The actors in each field also have a specific habitus. The habitus encompasses schemes for the everyday perception and interpretation of the social world as well as schemes of action. The habitus is a practical sense of the stakes, strategies, and rules within a field and simultaneously enables the application of appropriate practices.⁵

Bourdieu applied the concept that I have only roughly sketched out here primarily to the social space of individual national societies, and above all to France. However, it can be developed further and applied to other contexts. Thus it is theoretically possible to speak of the social space of an emerging world society. This space consists of numerous diverse local and transnational fields of action. In terms of police reform in South-eastern Europe, two bureaucratic fields can be distinguished: a local field of police forces and a transnational field of police reform.

First of all, local police forces in the Balkans represent individual bureaucratic fields, shaped by the history of the socialist state and the up-

3 See Pierre Bourdieu, *Practical Reason. On the Theory of Action*, Stanford, California 1998, pp. 1-13.

4 See Pierre Bourdieu/Loïc J.D. Wacquant, *An Invitation to Reflexive Sociology*, Cambridge, pp. 97-100.

5 See *ibid.*, pp. 19-26.

heavals of transition.⁶ The cultural capital of specialist qualifications, objectified in the form of police service grades or ranks, makes it possible for actors to follow career paths within the field. It takes the form of technical police knowledge, gained through training, and organization-specific service knowledge, gained through acquaintance with operational processes. Social capital plays a role as the sum of connections resulting from relations of patronage with higher-ranking police officers, political parties, and “big men”. Economic capital exists in the form of endowment with financial resources and salaries, but is also accumulated informally via various types of illegal acquisition. This field is also associated with a bureaucratic habitus, whose strategies encompass not only compliance with but also disregard and circumvention of formal rules.

Parallel to that, another field has established itself in the Balkans, namely the transnational field of police reform, within which an ever-growing number of regional and international actors are operating. Here, too, the dynamics of the field are determined by competition between the actors for good positions. The logic of this field, however, depends upon the world of “projects”.⁷ Here, the managers, consultants, trainers, and “stakeholders” are the key actors, who administer projects or programmes with their various goals, timetables, and budgets. Cultural capital consists here in reform expertise, which relates to technocratic knowledge of project management, as well as knowledge of the operational processes in the police, donor priorities, and local conditions. Social capital plays a role in the form of relations with important decision makers at the headquarters of international organizations in New York or Brussels, with key local implementation partners, such as high-ranking representatives of the local interior ministry, and with representatives of other international organizations. Economic capital, in turn, exists in the form of budgets and other financial resources for individual reform programmes or entire police missions. To this field there corresponds a technocratic habitus among project managers and police officers seconded to international missions, whose tasks include the planning and organizing of reforms.

The local field of police forces and the international field of police reform have their own rules, capital weightings, and forms of habitus, which lead to different practices. Neither can therefore be reduced to the other. Nonetheless, their forms of practice overlap and affect each other. Furthermore, the fields cannot be considered distinct in terms of space, as both equally find expression in the local context. It is therefore possible for the

6 See for instance on the police in Albania and Georgia, Stephan Hensell, *Die Willkür des Staates. Herrschaft und Verwaltung in Osteuropa* [The Arbitrariness of the State. Domination and Administration in Eastern Europe], Wiesbaden 2009, pp. 125-206.

7 Cf. Steven Sampson, *Weak States, Uncivil Societies and Thousands of NGOs: Benevolent Colonialism in the Balkans*, in: Sanimir Resic/Barbara Törnquist-Plewa (eds), *The Balkans in Focus: Cultural Boundaries in Europe*, Lund 2002, pp. 27-44, here: pp. 33ff.

actors in one field to act in the other.⁸ With this theoretical vocabulary, I wish to examine police reform in South-eastern Europe more precisely.

The Proliferation of International Actors

The reform of the police in South-eastern Europe appears to be a particularly urgent matter, as the high density of international actors performing all sorts of projects in the region suggests. The most important actors in the field of police reform include international organizations such as the OSCE, the EU, and the UN. However, many organizations do not appear as a single actor, but are present via a number of separate agencies. The UN, for example, has a specialist “UN Police Division”, which is responsible for the UN Civilian Police (CIVPOL) and for police components in UN missions. However, other UN agencies, such as the United Nations Development Program (UNDP), the United Nations Office on Drugs and Crime (UNODC), and the United Nations High Commissioner for Refugees (UNHCR) are also involved in police reform. The EU, too, is represented by a variety of institutions. EU police reform is carried out within the European Security and Defence Policy (ESDP), as well as in the context of the EU’s stabilization and association policy in the Balkans. As a result, the EU is present via its Council of Ministers, the EU Commission, and the European Agency for Reconstruction (EAR), a body that works on behalf of the European Commission. Additional key actors include individual states with special assistance programmes, such as the USA with its International Criminal Investigative Training Assistance Program (ICITAP). Other regional organizations and associations also pursuing police reform include the Council of Europe and the Police Forum Initiative of the Stability Pact for South Eastern Europe, as well as countless NGOs. As a result, there is a bewildering variety of actors, with various mandates, projects, and programmes, collaborating on police reform in the Balkans sometimes successively, sometimes concurrently.

In Croatia, for instance, police reform was undertaken first by the UN (1996-1998), then by the OSCE (1998-2000), then by ICITAP (since 2000), and recently also by the UNDP. In Bosnia and Herzegovina, the task of police restructuring was handed first to a UN police mission, the International Police Task Force (IPTF, 1995-2002), which was succeeded by a European-led EU Police Mission (EUPM) in 2003. At the same time, ICITAP is active here, and has trained some 26,000 police officers since 1996.⁹ In Kosovo, a police mission belonging to the United Nations Interim Administration Mission in Kosovo (UNMIK) was responsible from 1999 to 2009 not only for the execution of law enforcement functions, but also for the complete restructuring of the police. In addition, the OSCE and ICITAP (both since 1999), the

⁸ See Bourdieu/Wacquant, cited above (Note 4), p. 80.

⁹ Source: ICITAP, at: <http://www.usdoj.gov/criminal/icitap/programs/europe/eurasia.html>.

EAR, and individual states such as France, Germany, and Switzerland have worked to help establish the Kosovo police. The EU Rule of Law Mission (EULEX), which has been present in Kosovo since 2008, is also devoted to police training. In Serbia, aside from the OSCE (since 2001), ICITAP (since 2004) and the EAR, the Council of Europe and various individual states, including Australia, Germany, Italy, Norway, Sweden, Switzerland, and the UK, have been involved in the reform of the police.

The multitude of actors leads inevitably to the duplication or overlap of activities. In Bosnia and Herzegovina, for instance, crowd control was taught by the USA, France, and Germany, and interviewing techniques by the UK, Denmark, the UNHCR, and the US Immigration and Naturalization Service (INS).¹⁰ In Serbia, programmes to support the border police and to improve police forensics were each supported by three separate agencies, and programmes to combat organized crime were offered by five different actors.¹¹

Competition between the International Organizations

The highly internationalized reform of the police in South-eastern Europe can thus be conceived of as a distinct field of action, where a variety of international actors claim competencies while also competing with each other. In the following, I wish to demonstrate this with reference to the former Yugoslav Republic of Macedonia.¹² As in other Balkan states, many organizations are active here. One important player is the European Commission, whose initial foray into the police-reform took the form of the European Commission Justice and Home Affairs Team (ECJHAT, 2002-2003), which was followed by the European Commission Police Reform Project (ECPRP, 2004-2005). At the same time, however, the EAR, in the service of the European Commission, was also active in the field of reform. Finally, within the scope of its ESDP, the EU also dispatched a police mission, EUPOL Proxima (2003-2005), which was followed by an EU Police Advisory Team (EUPAT) in 2006. Aside from these actors, all of whom were acting in the name of the EU, other organizations were also present: Both the OSCE and ICITAP have been involved in police reform in the Balkan state since 2001. On top of this, further regional activities are being carried out under the aegis of the Stability

10 Cf. David H. Bayley, *Changing the Guard. Developing Democratic Police Abroad*, Oxford 2006, p. 101.

11 Cf. Thorsten Stodiek, *The OSCE and the Creation of Multi-Ethnic Police Forces in the Balkans*, Institute for Peace Research and Security Policy at the University of Hamburg, Centre for OSCE Research Working Paper 14, Hamburg 2006, p. 47.

12 In the following, I draw upon Isabelle Ioannides's excellent analysis, *Police Mission in Macedonia*, in: Michael Emerson/Eva Gross (eds), *Evaluating the EU's Crisis Missions in the Balkans*, Centre for European Policy Studies, Brussels 2007, pp. 81-154, available online at: <http://www.ceps.eu>, and Michael Merlingen/Rasa Ostrauskaitė, *European Union Peacebuilding and Policing. Governance and the European Security and Defence Policy*, London 2006, pp. 79-102.

Pact for South Eastern Europe and the Council of Europe, while Norway, France, the UK, the Netherlands, and Italy have all undertaken bilateral initiatives.

The first thing these actors needed to do was to co-ordinate their activities. The leaders of the local Delegation of the EU Commission, the local presence of the EAR, the head of EUOPOL Proxima, and the ECJHAT/ECPRP co-ordinator had informal weekly meetings, chaired by an EU Special Representative (EUSR). Alongside this EU-internal co-operation, however, it was also necessary to co-ordinate with other international actors. To this end, a Police Expert Group was created as a formal co-ordination mechanism, once more under the chairmanship of the EUSR. As well as the actors mentioned above, it included representatives of the OSCE, ICITAP, and individual EU member states. However, these attempts at creating social capital via co-operation were relatively ineffective, because information on current and planned initiatives was withheld or ignored and co-operation was directly refused.¹³

This led to a high degree of duplication and numerous overlaps. For instance, the Council of Europe carried out several assessments of the police in the 1990s, and drew attention to a number of shortcomings that were later also identified by the European Commission and then also by EUPOL Proxima.¹⁴ The organizations also came into conflict with each other. The OSCE fell out not only with the EAR and the European Commission, but also repeatedly with EUPOL Proxima, when the latter attempted to become involved in community policing – an area in which at least five actors have been active at one time or another.¹⁵ In training the police in the use of firearms, the OSCE refused to co-operate with EUPOL Proxima, which ceased its activity in this area as a result.¹⁶ Disputes over competences and power struggles also developed among EU actors. For instance, the transfer of projects and individual programme elements from the local Delegation of the EU Commission in Skopje to the EAR was a cause of conflict, as the Delegation was losing competencies and personnel in the process, and felt that its influence was being curtailed. A dispute over competences also developed between the EUSR and the head of the Delegation of the European Commission, who effectively refused to speak to each other between 2001 and 2005 and whose conflict culminated in a full-scale public “turf battle” in April 2005.¹⁷

13 Cf. Ioannides, cited above (Note 12), pp. 97, 105; Merlingen/Ostrauskaitė, cited above (Note 12), p. 85.

14 Cf. Ioannides, cited above (Note 12), pp. 99, 103, 106f.

15 Cf. *ibid.*, pp. 107f.; Stodiek, cited above (Note 11), p. 67.

16 Cf. Merlingen/Ostrauskaitė, cited above (Note 12), p. 91.

17 Cf. Ioannides, cited above (Note 12), pp. 97f.; Tobias Flessenkemper, EUPOL Proxima in Macedonia, 2003-05, in: Michael Merlingen/Rasa Ostrauskaitė (eds), *European Security and Defence Policy. An Implementation Perspective*, London 2008, pp. 78-96, here: p. 92.

In the process, EUPOL Proxima, which had been a late arrival on the scene compared to other international actors, came under particularly strong pressure to justify its existence, since the tasks granted to it in its mandate had previously been administered by others. Hence, its *raison d'être* was continuously being called into question.¹⁸ For instance, EUPOL Proxima planned to provide technical assistance for the demilitarization of the border security forces, although this was a role that the OSCE and the European Commission had previously carried out. In the case of efforts to establish confidence-building measures between the population and the police, it was again the OSCE and ICITAP who were already active. The EUPOL Proxima plan to train the police in the use of firearms also encroached on an area where the OSCE was already active, while the overhaul of the promotion system was already in the hands of the European Commission and other actors. For that reason, EUPOL Proxima had to spend a lot of time identifying the gaps that remained in the reform programme in order to claim them for itself.¹⁹ “No detail was too small or unimportant to be outside the purview of the EU peacebuilders.”²⁰ Although EUPOL Proxima was largely considered a failure and its necessity openly called into question, the EU Council of Ministers decided at the end of 2004 to extend its mandate for a further year. Apparently, the symbolic prestige value of the first civil ESDP mission outweighed its practical benefits.

Although all the external actors ultimately wanted the same thing, namely a reform of the police, in practice, reform policy turned out to be a competitive business, in which actors vied for influence, resources, and prestige. The various international organizations were forced to accumulate the cultural capital of reform expertise through their own projects in order to justify their mandates and presence on the ground.

The Problem of “Policy Slippage”

A further example of the contradictory effects of police reform is the case of Albania.²¹ The EU has had a police mission in Albania since 1997, firstly the Multinational Advisory Police Element (MAPE), and, since 2002, the Police Assistance Mission of the European Community to Albania (PAMECA). The

18 Cf. Merlingen/Ostrauskaitė, cited above (Note 12), p. 91; Ioannides, cited above (Note 12), p. 105.

19 Cf. Merlingen/Ostrauskaitė, cited above (Note 12), pp. 91, 94.

20 Ibid., p. 99.

21 The following is based on field research carried out by the author in April 2004 and September 2005 in Albania and on numerous interviews with members of the local police and representatives of international organizations. Cf. Stephan Hensell, *Die Grenzen der Gesetzeshüter. Zur bürokratischen Praxis in der albanischen Polizei*, [The Limits of Law Enforcement. On Bureaucratic Practice in the Albanian Police], *Hamburger Beiträge zur Friedensforschung und Sicherheitspolitik*, No. 141, Hamburg 2005, and idem, *Die Willkür des Staates*, cited above (Note 6), pp. 137-162.

bilateral Italian “Interforza” mission has also been active in the area of police reform since 1997. More recently, the local Delegation of the European Commission has become engaged here, too. Further relevant actors are the OSCE and ICITAP, both of which have operated various projects since 1997. Alongside ICITAP, two further US agencies are active: the United States Agency for International Development (USAID) and the Export Control and Related Border Security Assistance Program (since 2005). The UNDP was also involved in police reform prior to 2008 with a project on community policing. Additional bilateral, multilateral, and international co-operation agreements exist with Germany, Greece, Europol, Interpol, the Council of Europe, the EU border security agency Frontex, the UNHCR, and UNODC. There are also arrangements with NGOs such as Germany’s Hanns Seidel Foundation, and the International Organization for Migration (IOM). In addition, the Albanian police is involved in a number of regional co-operation projects, including the Southeast European Cooperative Initiative (SECI), the Black Sea Economic Cooperation (BSEC), the Stability Pact for South Eastern Europe, and trilateral arrangements, mainly with Greece and Italy.

As elsewhere in the Balkans, problems arise from overlapping projects, clashing institutional reform policies, the duplication of training programmes, the provision of the same service multiple times, and the use of contradictory models of policing. In view of this, the international actors formed an international consortium in January 2002, specifically to define who is active in each field and precisely what they are doing. This consortium has seven working groups, which had a total of 21 regular meetings during 2008. Topics discussed include integrated border management, organized crime, information management, training and equipment, crime prevention, witness protection, community policing, and legal reform.

Besides the institutions mentioned above, other members of the consortium include the World Health Organization (WHO), the United Nations Children’s Fund (UNICEF), individual states such as Denmark, the UK, Austria, Italy, Germany, the USA, the Czech Republic, Greece, France, and Sweden, as well as local NGOs such as the Albanian Helsinki Committee, the Albanian Foundation for Conflict Resolution, and the Institute for Democracy and Mediation. A total of over 100 participants from around 45 organizations took part in the general meeting of the consortium in April 2009. However, the participants consider the consortium to be relatively ineffective. National egoisms, the theft of project ideas, and competition for the most prestigious reform project cause the participants to withhold relevant information, whose exchange is precisely the consortium’s purpose.²² As in the former Yugoslav Republic of Macedonia, external actors are competing over the cultural capital of reform expertise.

22 Source: author’s interviews in Tirana with OSCE representatives.

The sheer number of intervening agencies has led the Albanian state to abdicate responsibility for financing and equipping its police in many regards. The economic capital necessary for investment in the police, for example, now largely comes from international donors, who provided 16 million euros in 2007 alone. This accounted for more than 80 per cent of all investment in the police.²³ The international actors also help in the training of the staff, strategic planning, and the implementation of strategies to fight crime. They furthermore advise on police-related legislation and provide logistical and material assistance. Police officers from EU states support the work of their Albanian colleagues at border crossings and patrol the sea with them.

However, the effects of this internationalized reform programme are contradictory, since the Albanian police force represents its own bureaucratic field that is characterized by specific practices and forms of habitus.²⁴ This includes above all the informal appropriation of economic capital through corrupt practices and the reproduction of social capital within clientelistic networks among police officers. Diverse strategies of subversion and evasion that lead to “policy slippage” are a common feature of the police apparatus. This has consequences for the central area in which the international organizations are active, namely the investment in training programmes. The external actors consider the implementation of a large variety of basic, advanced, and specialist training programmes, some of which are organized abroad, to be a central means of improving the effectiveness of the police. However, the cultural capital conveyed in seminars and training courses has little value for the police officers, because it is mainly social capital that determines career trajectory in the local field. Party patronage and the clientelism of police chiefs are dominant practices and go hand in hand with the permanent rotation of staff that makes the application of the specialist knowledge acquired impossible.

A further problem lies in the unintended consequences of external assistance. For instance, with the support of ICITAP, an internal audit service, the *Shërbimit të Kontrollit të Brendshëm* (Internal Control Service, SHKB), was established within the Ministry of the Interior. The service gathers information on irregularities and legal infringements in the police force and uncovers instances of corruption. However, the SHKB is not under democratic control and answerable only to the interior minister, who has made the office subject to his personal interests. Most disciplinary transfers and dismissals of police officers are based on information gathered by the SHKB, usually, however, without reliable evidence and the use of correct procedures in accordance with public sector employment law. For this reason, the SHKB was

23 Cf. Republic of Albania, Council of Ministers, *External Assistance Orientation Document*, Tirana 2008, pp. 16f.

24 Cf. Hensell, *Die Grenzen der Gesetzeshüter*, cited above (Note 21), and Hensell, *Die Willkür des Staates*, cited above (Note 6), pp. 137-162.

described by a high-ranking police officer as a “modern Gestapo”.²⁵ For the interior minister, the incriminating evidence provided by the SHKB is above all a welcome means of making disloyal police officers compliant or of getting rid of them, so as to fill lucrative positions with a new clientele. The minister’s practice of arbitrarily transferring and dismissing police officers is well known, but it is increasingly being performed with reference to terms such as “corruption”, “increasing efficiency”, and “reform”.²⁶ These concepts, which are mainly reproduced discursively in the transnational field, also represent a form of cultural capital for the local “big man”, as they allow him to legitimize his practices. As a result, anti-corruption efforts, which often amount to no more than the rotation of personnel, provide discursive and institutional support to the minister’s arbitrary rule. This outcome is at least partly thanks to the reform efforts of the international actors and at the same time a reason for their continuing activity. The establishment of an internal complaints authority and a police union are two of the next potential reform projects that could help to better protect police officers from the arbitrary rule of their superiors.

Summary

The reform of the police in the Balkans presents a contradictory picture that is characterized by the bewildering – at times absurd – variety of international actors and practices of local subversion. The massive external intervention amounts to a “solicitous siege”, which can however only in part be considered a response to a genuine need for reform. That is because international actors, regardless of their honourable intentions and the necessity of their assistance, also have a strong self-interest in the reforms, which provide their institutions with legitimacy. The promotion of reforms in the Balkans can therefore also be interpreted as an attempt by organizations to find new tasks and activities that justify their existence. Playing into their hands, a discourse on security policy purveyed by university institutions and think tanks equates distinct phenomena such as crime, terrorism, and “fragile states” and conflates them into a highly diffuse threat scenario.²⁷ This discourse is extremely useful to the international actors, as it opens a wide range of activities, one of which is the creation of effective police institutions. A similar function is played by references to the necessity of comprehensive reform of the “security sector”, which encompasses not only the police, but also the judicial and penal systems, the legislature, etc. This approach, however correct

25 Source: author’s interviews in Tirana with a senior police officer.

26 Cf. BIRN, *Albanian Government Criticized Over Police Reform*, 18 July 2007, available online at: <http://birm.eu.com/en/94/15/3658>.

27 Cf. the critical views of Klaus Schlichte, *Gibt es überhaupt “Staatszerfall”? Anmerkungen zu einer ausufernden Debatte* [Does “State Collapse” Even Exist? Remarks on a Proliferating Debate], in: *Berliner Debatte Initial* 4/2005, pp. 74-84.

it may be, also leads to continuous intervention. The result is the proliferation of external actors, who, with their overlapping and competing claims and competencies, are somewhat reminiscent of mediaeval feudal society.

This is not only a problem of a “lack of cohesion”. The multitude of international organizations, agencies, and programmes, which already need to be managed by international consortiums and steering bodies, results in an expansion of bureaucracy: Hand in hand with the transnational administrative field, an international class of project managers and experts is also formed. Acculturated by the language of “reform” and “projects”, these elites share a common administrative habitus and reproduce a socio-technological mentality.²⁸ The result of this expansion of administrative functionalist logic is above all the increasing internationalization of bureaucratic domination.

However, the effects of the reforms on the actual object of the entire effort – the local police forces – are questionable. Undoubtedly some successes have been achieved by police reform. However, exaggerated hopes regarding the possibilities of the international engagement are rather out of place. Good policing and legal-rational police management cannot be taught in seminars, because the field of the local police has its own logic. In the case of the Balkan states, party machines, clientelist networks, and the economic interests of “big men” play an essential role. Reform attempts are therefore likely to continue to be thwarted by local practices that aim at evading international requirements or playing external actors off against one another.²⁹ Such strategies of obstruction are to be expected particularly when the attempt is made to enforce police reforms against the interests of local power groups, as occurred in Bosnia.³⁰ At this point, at the latest, it becomes clear that police reform is always a deeply political process, and cannot be reduced to the logic of bureaucratic restructuring.

28 Cf. Sampson, cited above (Note 7), pp. 38–40.

29 Cf. also Stodiek, cited above (Note 11), pp. 47, 67.

30 Cf. also Berit Bliesemann de Guevara, *Staatlichkeit in Zeiten des Statebuilding. Internationale Intervention und politische Herrschaft in Bosnien und Herzegowina* [Stateness in an Age of Statebuilding. International Intervention and Political Domination in Bosnia and Herzegovina], Hamburg 2009.

III.

Organizational Aspects

OSCE Institutions and Structures

The Spirit of Helsinki 2.0 – The Finnish OSCE Chairmanship 2008

The Legacy and Challenge of the Finnish Chairmanship

Finland started its Chairmanship-in-Office of the Organization for Security and Co-operation in Europe in 2008 with an awareness of the expectations raised by the history of the Helsinki process, with a view not only to Finland's role at the outset of the entire process, but also to Helsinki's hosting of the tenth anniversary Ministerial in 1985 and the 1992 Follow-up and Summit Meetings. Equally conscious of its responsibilities in challenging circumstances, Finland was committed to looking forward rather than reminiscing about the past.

The acronym CSCE/OSCE has had a special place in the genealogy of Finnish foreign policy since the late 1960s, when the Helsinki government took an initiative that ultimately led to the launch of the Helsinki process in 1972.¹ At the same time, with the spirit and impact of the 1975 Helsinki Summit and the subsequent proliferation of national Helsinki Committees, "Helsinki" has been one of the most powerful brand names in international relations, not only within the CSCE/OSCE but also beyond. It signifies both the adjustment of mutual interests among great powers and other states, and the power of value politics and civil societies to promote change.

Finland's turn at the helm of the OSCE took place in a tense international climate. The ratcheting up of tension in the South Caucasus led to a crisis in Georgia in the summer that very much shaped the Chairmanship in the latter part of the year. Notwithstanding the drama of a violent conflict in the OSCE region, the year was full of activity in the pursuit of all three sides of the process: the politico-military, economic and environmental, and human dimensions.

This contribution argues that the Finnish Chairmanship achieved its main goals of strengthening the OSCE's role as a forum for political debate and bolstering the Organization's ability to act. It begins by sketching the international context of the Chairmanship and looking at the goals set at the start of the period. Thereafter the focus moves on to key aspects of Finland's management of the Organization's "routine agenda" and to a separate chapter on the OSCE's crisis management activities during the Georgian crisis. Fi-

Note: The opinions expressed in this contribution are those of the authors.

¹ For an account of the early years of the process by a veteran Finnish diplomat, see Markku Reimaa, *Helsinki Catch – European Security Accords 1975*, Helsinki 2008.

nally the results of the Helsinki Ministerial Council are assessed, before some concluding remarks.

A Start in Stormy Weather

The augurs were not good for the management of European security in late 2007. On 12 December, Russia suspended its implementation of the Treaty on Conventional Armed Forces in Europe (CFE), after its demands for the expedited ratification of the adapted CFE Treaty were not met by the NATO signatories. Furthermore, the deadline for the UN-mandated negotiations on the status of Kosovo lapsed on 10 December 2007, casting a long shadow over the OSCE Mission in Kosovo even if there was an agreement to extend its mandate from 1 January 2008 on a monthly basis.

There was also turbulence inside the Organization. The restrictive conditions placed by Russia on the activities of the monitoring team of the Office for Democratic Institutions and Human Rights (ODIHR) made a full OSCE observation of the Duma elections on 2 December impossible. The divergence of views on election observation – widely recognized as a core activity of the Organization – was further highlighted by the challenge directed by a group of participating States led by Russia against the OSCE's practice in this area at the Madrid Ministerial Council.² In addition, the discussion of the Organization's budget and scales of contribution for 2008 was dragging on with no prospect of being wrapped up before the beginning of the Finnish Chairmanship.

The decision of the Madrid Ministerial Council to grant the OSCE Chairmanship to Greece in 2009, to Kazakhstan in 2010, and to Lithuania in 2011 provided some balance to the internal turbulence. It brought a very difficult set of discussions to a conclusion and offered the Chairmanship to a country in the post-Soviet space and a CIS member state for the first time. The decision on future Chairmanships also created an opportunity for enhanced co-operation between the traditional OSCE Troika and future Chairmanships.

The heightened atmosphere of uncertainty meant that the Finnish Chairmanship not only had to prepare to take charge of the everyday life of the Organization, but also needed to brace itself for a possible crisis that could shake its foundations. The international situation also meant that preparations were concluded very late on the eve of the Chairmanship.

2 See *Statement by Mr. Sergey Lavrov, Minister for Foreign Affairs of the Russian Federation, at the Fifteenth Meeting of the OSCE Ministerial Council*, MC.DEL/34/07, 29 November 2007, pp. 2-3, at: http://www.osce.org/documents/mcs/2007/11/28525_en.pdf.

As a part of its preparations, the Finnish Foreign Ministry had commissioned an independent think-tank report on the OSCE.³ The report reflects the crisis atmosphere and refers to the OSCE's "crisis of both political substance and moral legitimacy". It proposes new consultations on the politico-military and human dimensions with a view to forming a new consensus on the substance of these two dimensions, including through political trade-offs as needed between "a Political East and West".

The report argues that the participating States should take steps to save the CFE and update the concept and scope of confidence- and security-building measures (CSBMs) as contained in the Vienna Document 1999. They should also start a high-level discourse on the common core elements and different forms and traditions of democracy, and secure the implementation of OSCE election observation as a key practice. With regard to the changed geopolitical situation, the report further foresees a strengthened OSCE role in interreligious and intercultural dialogues and an intensified co-operation with Asian Partners for Co-operation, including the option of bringing China into the framework. The future of the OSCE was discussed in a seminar jointly organized by the Finnish Institute of International Affairs (FIIA) and the Finnish Foreign Ministry on 14 January 2008, where the report was released.

The Chairmanship Programme

In a context of international turbulence and a crisis-ridden atmosphere, it was no surprise that the two leitmotifs of the programme of the Finnish Chairmanship were continuity and co-operation in the work of the OSCE, qualities that are useful in fair weather conditions as well as crisis situations. In addition, as a third key concept, the programme underlined the coherence of action across the broad set of OSCE commitments as well as with other international organizations.⁴

The programme, which was finalized in the early days of January 2008, laid out comprehensively the aims of the Finnish Chairmanship, from regional issues to the development of the organization. These included:

- to foster political dialogue, including on difficult issues,
- to strengthen the Organization's capacity to act,
- to re-energize efforts to resolve frozen conflicts,
- to intensify activities on small arms and light weapons (SALW) issues,

3 Wolfgang Zellner in consultation with Pál Dunay, Victor-Yves Ghebali, P. Terrence Hopmann, Sinikukka Saari, and Andrei Zagorski, *Identifying the Cutting Edge: The Future Impact of the OSCE*, CORE Working Paper 17, Hamburg 2008.

4 Cf. *Programme of the Finnish Chairmanship of the OSCE 2008*, CIO.GAL/7/08, 9 January 2008.

- to operationalize the OSCE Border Security and Management Concept (BSMC), particularly in Central Asia,
- to increase co-operation on water transport issues with a focus on improving security and protecting the environment,
- to stress the implementation of commitments related to elections and election observation,
- to combat trafficking in human beings,
- to improve the situation of Roma and Sinti,
- to pursue gender mainstreaming.

At the launch of the Chairmanship on 10 January 2008 in Vienna, the Chairman-in-Office, Foreign Minister Ilkka Kanerva, assessed the challenges the Organization faced and showcased his country's programme.⁵ In addition, Mr Kanerva presented an idea of "the Quintet" format – informal co-operation between the OSCE Troika of Spain, Finland, and Greece and the future Chairs of Kazakhstan and Lithuania – as a means of identifying common priorities for the purpose of better planning, and invited representatives of the foreign ministries of all five countries to meet in Finland. The idea of the Quintet was received positively among the participating States and the countries in question.

These priorities were reiterated when Alexander Stubb, as the new Finnish foreign minister, took the helm of the Organization from Kanerva in April. In his first speech as the Chairman-in-Office, Stubb stressed the value of the all-inclusive scope of the OSCE and its unique tools in promoting co-operation and resolving conflicts in the region.⁶

The Routine Chairmanship – Managing the Everyday Life of the Organization

The Finnish Chairmanship placed a high priority on re-energizing efforts to resolve the frozen conflicts in Transdniestria, South Ossetia, and Nagorno-Karabakh. Accordingly, Chairman-in-Office Kanerva travelled directly from the Chairmanship launch event on 10 January to Ukraine and Moldova (15-17 January), and a visit to South Caucasus followed suit in February (25-28). The visits aimed at giving new impetus to the moribund negotiations, and were followed by diplomatic efforts on the part of the Special Envoy of the Chairman-in-Office, Ambassador Heikki Talvitie.

The efforts succeeded in giving new momentum to the negotiations on the Transdniestrian conflict. As a result, the sides met in the informal 5+2

5 See *Speech by Chairman-in-Office, Minister Ilkka Kanerva at the OSCE Permanent Council*, CIO.GAL/10/08, 10 January 2008.

6 See *Address by the Chairman-in-Office, Minister for Foreign Affairs of Finland, Alexander Stubb at the OSCE Permanent Council*, CIO.GAL/59/08, 10 April 2008.

format several times, and the leaders of Moldova and Transdniestria met twice during 2008 after a hiatus of seven years. Discussions continued throughout the year, notwithstanding developments in other conflict areas, but they did not produce a breakthrough in conflict settlement.

In the South Caucasus, expectations of progress were more modest, as both Armenia and Azerbaijan prepared for presidential elections. The outbreak of violence in Yerevan in the aftermath of the Armenian presidential elections on 17 February spurred the Chairmanship to take action to reduce tensions by sending the Special Envoy to bring the sides to the negotiating table. The turmoil in Armenia had a bearing on the situation in Nagorno-Karabakh, where the worst fighting since the 1994 ceasefire broke out in early March. With the active mediation of the OSCE Minsk Group, the alarming situation was brought under control. Moreover, in Moscow in December, in the aftermath of the Georgian war, the presidents of Armenia and Azerbaijan issued a joint request for a peaceful settlement of the conflict together with Russia.

The Finnish Chairmanship made a special effort to deepen the engagement of the Central Asian participating States in the work of the OSCE and, consequently, enhance the impact of the Organization in facilitating stability and democracy in the subregion. A related consideration was the role of the Central Asian states in supporting international state-building efforts in Afghanistan. A focus was placed on the border security missions in Tajikistan, where Finland is funding several projects. Chairman-in-Office Stubb visited the region twice (Tajikistan, Uzbekistan, Turkmenistan on 2-5 June and Kazakhstan and Kyrgyzstan on 29 June-2 July).

The Finnish Chairmanship also placed an emphasis on implementing the decision by Madrid Ministerial Council 2007 on Enhanced OSCE Engagement with Afghanistan.⁷ The Secretary General was able to put forward a portfolio of projects in and around Afghanistan, but despite the Chairmanship's active support, the participating States could not agree on broad-based OSCE engagement with Afghanistan. This was because participating States had diverging views on OSCE action inside Afghanistan.

In the field of politico-military security, the Forum for Security Co-operation (FSC), which Finland chaired during the last third of the year, had an active year. The Annual Security Review Conference (ASRC) in early July brought together many of the priority themes of the Chairmanship. In addition to the frozen conflicts, the small arms issues featured prominently on the agenda. With its small arms work, the OSCE made a strong contribution to the UN process in this field, and to the UN Third Biennial Meeting of States to Consider the Implementation of the UN Programme of Action on

7 Decision No. 4/07, OSCE Engagement with Afghanistan, MC.DEC/4/07/Corr.1 of 30 November 2007, in: Organization for Security and Co-operation in Europe, *Fifteenth Meeting of the Ministerial Council*, 29 and 30 November 2007, Madrid, 30 November 2007, pp. 19-22.

SALW in particular. Equal attention was paid to the FSC's project activities and normative work.

It is also worth noting that the Finnish Chairmanship continued working on strengthening co-operation between the FSC and the Permanent Council. Three Joint and three Special Joint Meetings were held to address cross-dimensional issues relevant to the work of both the FSC and the Permanent Council.

There were dark clouds hanging over some of the OSCE field missions. In the western Balkans, the focus was on preserving the OSCE Mission in Kosovo (OMIK) in the midst of the political repercussions of that territory's declaration of independence of 17 February. As a pillar of the UN Mission in Kosovo (UNMIK), OMIK was accepted by Russia and Serbia, the key critics of Kosovo's independence, but it had to brace itself for the forthcoming withdrawal of the UN Mission and its replacement by the EU Mission EULEX.

Chairman-in-Office Kanerva paid a visit to Serbia and Kosovo in early February to argue for the continued relevance of the OSCE Mission. OMIK was indeed able to continue its work after Kosovo's declaration of independence, as there was wide recognition of the importance of the Mission's activities in the areas of institution building, democratization, and strengthening the rule of law. Towards the end of the year, it became evident that the OSCE Mission would be able to sustain its presence in the young country.

Turning to Central Asia, Tajikistan proposed major restrictions on the mandate of the OSCE field presence in the country and triggered lengthy negotiations on the new mandate. The thorny issue was resolved only in early June during the visit of Chairman-in-Office Stubb to Dushanbe. The OSCE Office in Tajikistan retained a comprehensive mandate, which was adopted on 19 June 2008.⁸

In an effort to foster rapprochement, Chairman-in-Office Stubb visited Belarus on 7 October to discuss with the Belarusian leadership issues related to the OSCE presence in Minsk and, more generally, Belarus's engagement in the European process of security and co-operation. The visit – the first of its kind since 2004 – contributed towards the European Union's efforts to carefully improve its tense relations with Belarus, including by lifting or modifying its sanctions.

The issue of election observation was another hot topic in the spring of 2008, particularly during the run-up to the Russian presidential elections on 3 March. Russian authorities and ODIHR engaged in a serious attempt to resolve their differences concerning the observation of the elections, but they did not reach an understanding on the terms of what would have been a credible OSCE election observation. This time, neither the OSCE nor the

⁸ See Organization for Security and Co-operation in Europe, *Permanent Council, Decision No. 852, OSCE Mission in Dushanbe*, PC.DEC/852, 19 June 2008.

OSCE Parliamentary Assembly observed the elections, whereas the latter had conducted a separate mission to the Duma elections in December 2007.

In order not to let the lingering disagreements on election observation hamper the OSCE's human dimension work more widely, the Chairmanship launched a discussion on election-related issues under the Chairman's Special Envoy Dr Kimmo Kiljunen and held a seminar on 21 July in Vienna to keep dialogue open. The approach managed to keep the OSCE's election observation work on track and lower the temperature of the political debate. However, these efforts did not reduce the gap between the fundamentally divergent views on the principles and methods of election observation that several OSCE participating States hold.

The OSCE was able to observe every election held in the OSCE area in 2008 apart from the Russian presidential elections. The Chairmanship also acted to improve co-operation between ODIHR and the Parliamentary Assembly, building on the practices established by the previous Spanish Chairmanship. They succeeded in working side by side, and only produced separate press statements regarding the US presidential elections.

Work on the other two human dimension priorities of the Finnish Chairmanship – beefing up the implementation of the 2003 OSCE Action Plan on Roma and Sinti (on the basis of ODIHR's report⁹) and intensifying the OSCE's activities to combat trafficking in human beings – received solid support among participating States, and work proceeded without problems.

The annual centrepiece of the economic and environmental dimension – the Economic and Environmental Forum – was arranged in two parts, in Vienna in January and in Prague in May. As the focal theme, the Finnish Chairmanship had chosen maritime and inland waterways co-operation, with its implications for comprehensive security in the economic and environmental spheres, support for regional and subregional processes and initiatives, and ability to highlight the role of seas and waterways in binding the OSCE countries together. The Forum was prepared in two expert meetings – one in Helsinki in September 2007 and the other in Ashgabat in March 2008. This was the first international conference within the OSCE framework to be held in Turkmenistan.

On the housekeeping side, the fierce negotiations over the OSCE budget led in early March to an agreement that allowed for increases of funding in priority areas set out by the Chairmanship. These areas were border management, gender activities, the fight against trafficking, combating terrorism, and projects in Central Asia. In May, a compromise was reached on the vexed issue of scales of contribution, whereby previously agreed scales remained the same until the end of 2009. The Chairmanship also launched a serious

9 See OSCE Office for Democratic Institutions and Human Rights, *Implementation of the Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area*, 24 September 2008.

discussion aimed at improving the budgetary and planning process of the OSCE to be followed by the incoming Greek Chairmanship.

Notwithstanding the tense international situation and previous bruising experiences, the nomination of Janez Lenarčič as the new director of ODIHR and the extension for three more years of the mandate of Secretary General Marc Perrin de Brichambaut proceeded on schedule, with both being decided before the summer recess.

The meeting of the ministers of the Quintet in Helsinki on 2 June 2008 provided an opportunity to go beyond the burning issues at hand and discuss long-term planning on the role of the OSCE in responding to new challenges in the 21st century. The ministers agreed on the sustained significance of continuity, coherence, and co-operation in the OSCE process.¹⁰ The Quintet ministers met also during the United Nations General Assembly ministerial week on 23 September and on the eve of the Helsinki Ministerial Council.

Alongside the well established Troika, co-operation among the Quintet at ministerial and other levels provided the Chairmanship with both a planning framework and a sounding board that has proved to be very useful on many occasions.

The Crisis Chairmanship – Conflict Management and Resolution in Georgia

The worsening security situation in the Georgian-Abkhazian and Georgian-South Ossetian conflict zones and deteriorating Russo-Georgian relations were evident in the spring. All the parties involved assumed more aggressive postures, and provocations and tit-for-tat type escalation dynamics started to prevail. The Chairmanship was increasingly involved in stopping escalation and preventing the outbreak of hostilities via three sets of activities.

Starting with his first formal statement on April 17, in which he expressed his concern about the establishment of official relations with de facto governments by Russia and called all sides to return to the negotiating table, Chairman-in-Office Stubb issued a total of six increasingly strongly worded public press statements before the outbreak of large-scale fighting on the evening of 7 August.¹¹ He also raised the issue in international meetings with many ministers, including the Georgian foreign minister in May. Drawing international attention to a potential hot spot was a case of the OSCE successfully fulfilling its early-warning function, but it failed to prevent the outbreak of hostilities.

As well as drawing attention to the deteriorating situation, the Chairmanship actively used the conflict-prevention mechanisms at its disposal. At

10 Cf. *Chairmanship countries pledge enhanced co-ordination to strengthen OSCE*, SEC.PR/212/08/Rev.1, 2 June 2008.

11 See OSCE press releases 107/2008, 28 March 2008; 130/2008, 17 April 2008; 141/2008, 30 April 2008; 244/2008, 4 July 2008; 275/2008, 2 August 2008; 278/2008, 7 August 2008.

the behest of the Chairman-in-Office, the OSCE Secretariat produced a paper on the use of OSCE conflict-prevention mechanisms and procedures in what was an escalating situation in Georgia.¹²

On May 2, the Chairmanship triggered one of the mechanisms by asking for expert advice from the Forum for Security Co-operation as per Bucharest Ministerial Council Decision No. 3 on Fostering the Role of the OSCE as a Forum for Political Dialogue.¹³ On May 28-30, both Georgia and the Russian Federation activated Chapter III of the Vienna Document 1999, which provides a mechanism for consultation and co-operation on unusual military activities. These instruments – one of them invoked for the first time ever – were used to defuse tension between Georgia and Russia. Most importantly, this meant consultations between the Russian and Georgian delegations in Vienna. The Chairmanship's role was to provide the necessary framework for consultations between the parties.

The third line of conflict prevention activity was the active mediation between the parties that was mainly carried out via the OSCE Mission in Georgia. Supported by the Chairmanship, the Mission and the Head of Mission, Terhi Hakala, in particular, were actively engaged in bringing the sides together. The efforts culminated on 7 August – the eve of the outbreak of hostilities – when the Mission facilitated a meeting between Georgian and Russian negotiators in Tshkinvali. The South Ossetian negotiators did not turn up and the conflict flared up later that evening.

Immediately after the outbreak of hostilities, the Chairmanship sprang into conflict management action. Together with Bernard Kouchner, Chairman of the EU's General Affairs and External Relations Council (GAERC), Chairman-in-Office Stubb travelled to Georgia on 10-11 August, then went on to Moscow on 12 August and to Brussels for a special session of the GAERC on 13 August. The aim of the mission was to work towards an immediate ceasefire and pave the way for humanitarian action. Their work in Georgia and Moscow provided a foundation for the mediation by France's President Nicolas Sarkozy that resulted in the Sarkozy-Medvedev ceasefire agreement of 12 August.

After the ceasefire was reached, the focus turned to implementation of the agreement, and particularly to increasing the number of OSCE monitors on the ground. As early as 13 August, the Chairmanship proposed to increase the number of OSCE monitors by 100, and after a week of blitz negotiations and ministerial level interventions, on 19 August – the same day the UN Security Council failed to agree on a resolution on Georgia – the OSCE Permanent Council decided to immediately dispatch 20 monitors and to deploy

12 See Organization for Security and Co-operation in Europe, *Compendium of OSCE Mechanisms and Procedures*, SEC.GAL/121/08, 20 June 2008.

13 Cf. Decision No. 3, Fostering the Role of the OSCE as a Forum for Political Dialogue, MC(9).DEC/3, in: Organization for Security and Co-operation in Europe, *Ninth Meeting of the Ministerial Council, 3 and 4 December 2001*, MC.DOC/2/01, Bucharest, 4 December 2001, pp. 25-27, here: pp. 26-27.

an additional 80 after the agreement of a detailed modalities for their work. The deployment of additional monitors proceeded with great speed and Chairman-in-Office Stubb was already able to visit Georgia on 21 August to launch the OSCE's enhanced monitoring activity.

In addition to monitoring, the Chairmanship aimed at initiating a process to seek a political settlement of the conflict. In a non-paper issued on 4 September entitled "*Next Steps in Georgian Conflict Settlement*",¹⁴ the Chairmanship proposed that the negotiations should be convened jointly by the UN, EU, and OSCE and include all the main stakeholders. The idea was favourably received, and what were later to become known as the Geneva discussions were launched in the Swiss city on 13 October by the UN Secretary General Ban Ki-Moon, Chairman of the GAERC Kouchner, and Chairman-in-Office Stubb.

The Geneva discussions, two further rounds of which took place during the Finnish OSCE Chairmanship, were complicated by Russia's decision to recognize Abkhazia and South Ossetia on 26 August, which drew widespread condemnation among the OSCE participating States, as it was seen to contradict fundamental OSCE principles. The issue created insurmountable obstacles for the decision to deploy a further 80 observers, and eventually to agree on an extension of the mandate of the OSCE Mission in Georgia. The other participating States were not willing to acknowledge – directly or indirectly – the de facto independence of the two entities, which was the Russian prerequisite for extension of the OSCE Mission in Georgia.

Throughout the crisis, stress was laid on effective co-operation between international organizations. The OSCE's close co-operation with the EU, and particularly with the very active French EU Presidency, continued during the practical matter of observation as well in the Geneva negotiations with the EU Special Representative Pierre Morel. The Chairmanship also emphasized co-operation with the UN, and Chairman-in-Office Stubb briefed the UN Security Council on 26 August and worked closely with the Special Representative of the UN Secretary-General, Johan Verbeke. In addition, Chairman-in-Office Stubb addressed the North Atlantic Council at ministerial level on 19 August in Brussels. The Council of Europe, in turn, was involved in a project to assess the human rights situation in the war-affected areas following the conflict in Georgia.¹⁵

14 CIO.GAL/125.08, 4 September 2008.

15 Cf. Organization for Security and Co-operation in Europe, *Human Rights in the War-Affected Areas Following the Conflict in Georgia*, CIO.GAL/181/08, 28 November 2008; Council of Europe, *Human Rights in Areas Affected by the South Ossetia Conflict. Special Mission to Georgia and Russian Federation*, CommDH(2008)22, 8 September 2008.

As the conclusion of an eventful, even dramatic year for the OSCE, the Helsinki Ministerial Council was given a taste of high politics by the ongoing discussions around President Dmitry Medvedev's proposal for a new European security treaty.

In Berlin, on 5 June 2008, President Medvedev proposed convening a pan-European summit to frame negotiations on a legally-binding "European Security Treaty". High-ranking Russian representatives reiterated the idea several times, including at the ASRC on 1 July 2008. President Medvedev himself returned to the issue at a press conference he held in Evian on 8 October 2008 with President Sarkozy, and at the Nice EU-Russia Summit on 14 November 2008. The Russian argument was essentially that European security was not indivisible, but that two decades after the Cold War, it was still characterized by bloc thinking that created different levels of security, resulting in friction.

It was clear that an initiative of this kind by the principal critic of the OSCE's role in the European security architecture needed to be given a hearing in the Organization itself. It was also natural because, even though the practical implications of the Russian proposal remained largely undefined, the OSCE would be a principal forum for whatever discussions would emerge on the topic.

Accordingly, in his letter to his colleagues on 26 November, Chairman-in-Office Stubb suggested holding a discussion on the future of security in Europe at a working luncheon of the foreign ministers on 4 December. The opportunity to engage in the discussion on such an important issue was instrumental in bringing a record crowd of forty-seven foreign ministers to Helsinki.

The frank luncheon discussion with some twenty interventions served to clarify a number of *a priori* points of departure that would frame any follow-up activity on European security. At the end of rather a long meal, Chairman-in-Office Stubb listed eight such points: The OSCE is the right forum for these discussions; dialogue was welcomed by all; there are still more questions than answers; there is no need to consider new institutions; the focus should be on substance; the OSCE concept of comprehensive security should be the basis for the discussions; settling unresolved conflicts should be a priority; and the substance of the matter should be clarified before any agreement is reached to hold a Summit.¹⁶

The OSCE Ministerial Councils have been able to agree on a political declaration only twice (2001 and 2002) since the Istanbul Summit (1999) mainly due to diverging views regarding the so-called Istanbul Commit-

16 Cf. Organization for Security and Co-operation in Europe, *Discussion on the future of security in Europe at the OSCE Ministerial working lunch on 4 December 2008*, MC.DEL/92/08, 15 December 2008.

ments. So the odds were stacked against the Finnish Chairmanship. Finland tried to renew both the format of the political declaration and the process through which it was negotiated. The one-and-half-page draft of the political declaration, entitled “Renewing the Spirit of Helsinki”, released to the participating States only a few weeks before negotiations began in the capitals, was more focused than in previous years. After direct input from national delegations, the text went through three revisions in the negotiations in Helsinki.

There were two particularly troublesome obstacles: Disputes over the CFE Treaty and the status of South Ossetia and Abkhazia following the Russian-Georgian conflict proved to be intractable. There was simply no common ground over these difficult issues upon which a joint text could be built. Moreover, with the discussion of the Russian security initiative gaining momentum, there was no readiness or consensus among the principal parties to outline the status and future of the European security scene in a general or prescriptive manner. The Chairmanship finally issued the draft declaration as a perception paper.¹⁷

The Helsinki Ministerial Meeting produced a rich array of texts to guide the future work of the OSCE across all three dimensions. They included a declaration on regional security and 13 decisions. The outcome ensured continuity in the OSCE’s work and improved the Organization’s capability to take practical action in a number of fields. The large number of human dimension decisions was particularly significant, as these are traditionally difficult to pass and hence scarce, as was the achievement of an agreement on a declaration on human rights. As a consequence, the Helsinki Meeting in the difficult year of 2008 fulfilled and in some cases even surpassed the expectations of the Chairmanship.

In the area of regional conflicts, a declaration on Nagorno-Karabakh prepared by the Minsk Group,¹⁸ which had been encouraged by the progress seen in recent meetings, urged the parties to draft a comprehensive peace agreement. It was significant that the Armenian and Azerbaijani foreign ministers committed themselves to the text.

The negotiations on a declaration regarding the conflict related to Moldova have proceeded better than ever since the 2002 Porto Ministerial Meeting, with the only insurmountable issue turning out to be a reference to the CFE Treaty.

A total of six human dimension decisions were adopted at the Helsinki Ministerial. The Ministerial Declaration on the Occasion of the 60th Anniversary of the Universal Declaration of Human Rights is one of the most sig-

17 See Organization for Security and Co-operation in Europe, Ministerial Council, Helsinki 2008, *Perception Paper of the Chairman-in-Office on Renewing the Spirit of Helsinki*, MC.GAL/13/08, 5 December 2008.

18 Ministerial Statement, MC.DOC/1/08, 5 December 2008, in: Organization for Security and Co-operation in Europe, *Sixteenth Meeting of the Ministerial Council*, 4 and 5 December 2008, Helsinki, 5 December 2008, p. 3.

nificant human rights texts agreed among the OSCE participating States in several years.¹⁹ The declaration confirmed their adherence to the principal UN and OSCE commitments, and reiterated the principle of the historic 1991 Moscow meeting, according to which such OSCE commitments are matters of direct and legitimate concern to all and do not belong exclusively to the internal affairs of the state concerned.

Other outcomes in the human dimension include an enhanced OSCE contribution to improving the situation of Roma and Sinti by means of education and participation in public life, and combating trafficking in human beings by enhancing the means available to the criminal justice system.

Concluding Observations

The scope and nature of the discussion in the OSCE as well as its ability to react are intractably linked to the state of international politics beyond the Organization's immediate agenda and competence. As an ossified conference, the OSCE still reacts to these changes more directly than many other international organizations.

The challenge for the OSCE Chairmanship is to weather the storms and harness positive developments at international level to take the Organization forward and contribute to co-operative security in Europe. The international climate during the Finnish Chairmanship was characterized by storms rather than positive developments, but the Organization was able to fare well in the crisis situation. The OSCE increased its relevance both as a forum for political debate and as an actor in crisis management.

The debates in the Permanent Council and the Ministerial Council covered all the relevant security issues, and dialogue was also maintained on difficult issues and during difficult periods. The launch of the discussions on the future of security in Europe at the Helsinki Ministerial further underlined the key role of the Organization in political dialogue.

The successful action undertaken by the OSCE during the Georgian war and after the ceasefire agreement demonstrated that the Organization can still punch above its weight in crisis management. The action showcased the OSCE's strengths in crisis management: Provided the political will exists, the OSCE can act swiftly and put assets on the ground at lightning speed. This is because it can tap the resources and expertise of all participating States and easily co-operate with other international organizations. The OSCE can still be a successful first responder in European crisis management. In this context, the Russian refusal to prolong the mandate of the OSCE Mission in Georgia will weaken the Organization.

19 *Ministerial Declaration on the Occasion of the 60th Anniversary of the Universal Declaration of Human Rights*, MC.DOC/2/08, 5 December 2008, in: *ibid.*, pp. 4-5.

While the OSCE delivered strongly on its two main functions during 2008, questions about long-term adaptability remain. The above-mentioned study commissioned from the Hamburg-based Centre for OSCE Research (CORE) prior to the Finnish Chairmanship recognized that protracted conflicts together with the continued challenges of political, economic, and social transformation in the OSCE area made the OSCE's strategy essentially defensive. By ensuring the continuity of its strategic and operational activities in all its dimensions, the OSCE was better poised to adopt an "offensive" strategy when the time is politically ripe.²⁰

A more offensive strategy could be based on launching a new generation of politico-military and human-dimension measures as well as strengthening the linkage with the wider geopolitical context in Asia. These steps would require strong political backing by the participating States and a re-energized common view of co-operative security from Vancouver to Vladivostok. The Finnish attempt to renew the spirit of Helsinki – Spirit of Helsinki 2.0 – was aimed to contribute towards this goal.

20 Cf. Zellner, cited above (Note 3), p. 34.

Kazakhstan and Its Preparations for the OSCE Chairmanship in 2010

The Republic of Kazakhstan joined the Organization for Security and Co-operation in Europe (OSCE) in January 1992. It is important to note that Kazakhstan's accession to the OSCE was initiated by the Western participating States of this influential international organization. For our country, which only gained independence 18 years ago, in 1991, it was vital to take part in political, social, and economic developments on the territory stretching from Vancouver to Vladivostok. Kazakhstan therefore endeavoured – successfully – to put the principles of the Helsinki Final Act of 1975 into practice. Over this period, Kazakhstan and the OSCE have acquired important experience in strengthening regional security and the development of an open civil society.

In the early stages of the relationship between Kazakhstan and the OSCE, the main focus was on the exchange of information and practical advice that would foster the reforms in our country necessary for the period of transition to a market economy. The development of relations between Kazakhstan and the OSCE facilitated the creation of the framework for co-operation, resulting, in particular, in the adoption of a range of bilateral documents, such as the Memorandum of Understanding between the government of the Republic of Kazakhstan and the OSCE. In January 1999, the OSCE Centre was opened in Almaty (currently the OSCE Centre in Astana). As the result of the Memorandum of Understanding signed with the Office for Democratic Institutions and Human Rights (ODIHR), Kazakhstan began to develop projects aimed at facilitating the protection of human rights, electoral legislation, and the reform of the taxation and judiciary systems.

The direct involvement of representatives of Kazakhstan in OSCE structures began in 2008, when the Finnish OSCE Chairman-in-Office invited Kazakhstan to participate in the Economic and Environmental Committee of the Organization. In 2009, Dora Bakoyannis, the 2009 OSCE Chairman-in-Office from Greece, invited the representatives of Kazakhstan to head the Contact Group with the OSCE Mediterranean Partners for Co-operation, and appointed a Kazakh diplomat as her Personal Representative on Combating Intolerance and Discrimination against Muslims.

In our view, Kazakhstan's Chairmanship in 2010 is an important event for both our country and the OSCE. For Kazakhstan it signifies, first of all, a recognition of the need to promote political, social, and economic reforms and to take on the responsibility for security on the territory of the Organization along with its OSCE partners.

Note: The views contained in this contribution are the author's own.

For the OSCE, the decision regarding Kazakhstan's Chairmanship was somewhat unexpected: For the first time in history, the position was applied for by a member of the Commonwealth of Independent States (CIS), a country that is going through political and economic transformation, a country geographically located mostly in Asia, and a country where Islam is the dominant religion.

For these reasons, it was not easy to reach a consensus on Kazakhstan's Chairmanship of the OSCE. Kazakhstan first applied in 2003 in the hope of being awarded the Chairmanship in 2009. The decision in November 2006 to defer Kazakhstan's Chairmanship demonstrated institutional problems within the Organization and the absence of explicit criteria for the election of the Chairmanship. It became clear that the decision depended more upon the need to overcome the stereotypes held by EU member countries regarding the members of the CIS.

The reservations held by some Western partners about Kazakhstan and its desire to chair the OSCE were mostly dispelled at the 15th OSCE Ministerial Council Meeting (Madrid, 29-30 November 2007). Speaking at this event, Marat Tazhin, the Minister of Foreign Affairs of Kazakhstan, said that not only was Kazakhstan continuing to modernize its own political system in line with OSCE recommendations, but that as the holder of the OSCE Chairmanship, it would also assume responsibility for supporting the fundamental principles of the Organization, including by strengthening the mandate of ODIHR.¹

As the result, Kazakhstan was awarded the OSCE Chairmanship in 2010 instead of 2009. This decision was taken in view of the need to continue reforming the political, judicial, and social systems as well as to train Kazakh staff to work in OSCE structures.

Another step in preparing Kazakhstan to take on the functions of the OSCE Chairmanship was the invitation of the Finnish 2008 Chairmanship to Kazakhstan and Lithuania to join the extended "triumvirate" of Chairs (the OSCE Troika) as early as 2008 to work on the OSCE's long-term programmes. Kazakhstan thus began work within the OSCE structure two years before it took on the Chairmanship, which was an opportunity for it to gain experience and, even more importantly, enabled it to attract its partners' attention to the current problems of the Central Asian region.

One must recall that Kazakhstan joined the OSCE Troika during a difficult period. The global financial crisis has had a negative impact on the whole system of international relations. The efficiency of the OSCE was challenged by the recent surge of international terrorism, drug trafficking, illegal migration, and the consequences of the global environmental, food, and energy crises. Now the OSCE faces the need to search for new and efficient

¹ See *Address of H.E. Dr. Marat Tazhin, Minister of Foreign Affairs of the Republic of Kazakhstan, at the OSCE Ministerial Meeting* (Madrid, November 29, 2007), MC.DEL/38/07, 29. November 2007, at: http://www.osce.org/documents/mcs/2007/11/28529_en.pdf.

forms of co-operation that will represent an adequate response to contemporary challenges and threats.

The most difficult year for the OSCE was 2008, during which key events such as the declaration of Kosovo's independence, the war in the Southern Caucasus, and the self-declared independence of Abkhazia and South Ossetia were discussed and addressed outside the OSCE framework. The events in Kosovo and the Southern Caucasus have shown that the OSCE's principle of universal security is not yet a reality. This led to recognition of the need for a change of approach to the system of security in the OSCE area.

Issues related to the creation of a new security system in Europe that could adequately respond to challenges and risks associated with the current stage of global development were addressed at the 17th Annual Session of the OSCE Parliamentary Assembly held in the capital of Kazakhstan, Astana, from 29 June to 3 July 2008. Speaking at the forum, Nursultan Nazarbayev, the President of Kazakhstan, said that "deep geopolitical transformations happening in recent years have made us recognize that there is no merely European or merely Asian security. Destabilization in one state threatens the security of Eurasia as a whole".²

The President assured his OSCE partners that our country is aware of its role as a responsible participant in regional and global economic, military, and political developments. Kazakhstan is an important component of the global energy extraction and transport/transit infrastructure, and is among the largest exporters of hydrocarbons in the world.

Kazakhstan currently has a large stock of energy and food resources and can increase the amount it supplies to the world market on the condition that it receives investment capital and new technologies developed by the European countries. Close co-operation will be beneficial for all the OSCE participating States. Kazakhstan supports the transformation of the activities of the OSCE to meet the interests of all the Organization's participating States, and views its forthcoming Chairmanship as a good opportunity to breathe some fresh air into the interaction between them.

The decision to award Kazakhstan the Chairmanship of the OSCE in 2010 gave an important boost to the political, social, and economic reforms in the country. By the end of 2008, Kazakhstan had carried out reforms aimed at increasing the efficiency of its political system. These included the development of a balanced system of interaction between the three branches of governmental power; strengthening the system of party representation; empowering local authorities; and increasing the transparency of the judicial

2 *Vystuplenie Prezidenta N.A. Nazarbaeva na otkrytii 17-oi ezhegodnoi sessii Parla-
ment'skoi Assamblei OBSE*, [Speech of President N.A. Nazarbaev at the opening of the
17th Annual Session of the Parliamentary Assembly of the OSCE], Astana 29 June 2009,
at: http://www.akorda.kz/www/www_akorda_kz.nsf/sections?OpenForm&id_doc=AC0A7F9C8664DEFD062574780000F693&lang=ru&L1=L2&L2=L2-16 (author's translation).

system. The constitution was amended to enhance the role of political parties. Elections to the lower house of Parliament, the *Mazhilis*, were held in 2007.

Kazakhstan is co-operating closely with ODIHR and the OSCE in carrying out its political reforms. In 2007-2008, regular consultations between the experts of the Central Election Commission of Kazakhstan and ODIHR were held to develop recommendations on how to amend the election legislation and the law on mass media. According to the Ministry of Culture, some three thousand periodicals are published in Kazakhstan, 80 per cent of which belong to private legal entities and individuals.

Kazakhstan has adopted the concept of mass-media self-regulation, which will help to solve a wide range of problems. New amendments to the law on mass media have eased restrictions on journalists and increased their security. The registration procedure for mass media has been significantly simplified and the right to sue governmental organizations and their employees for denying access to requested information has been established.

The changes in the law on political parties were made to improve organizational and legal aspects of the activities of political parties, as well as to strengthen their authority, further develop democracy in Kazakh society, and create a political system that would conform to international standards. The state registration procedure and the rules for financing political parties elected to Parliament have also become simpler. Currently in Kazakhstan, where the population is 16 million, there are ten registered political parties.

A new amendment to the election law makes it impossible for the lower house of Parliament to consist of only representatives of a single party. If only one party receives more than seven per cent of votes cast, the party receiving the second highest number of votes will also receive its seats in Parliament. This ensures the participation of at least two political parties in the lower house.

A special programme entitled *The Path to Europe* was adopted in Kazakhstan in 2008. It stipulates that the country is interested in co-operation with European countries in the fields of energy, transport and transit, technology transfer, education, and humanitarian collaboration. This is an indication of Kazakhstan's intention to build up a strategic partnership with Europe in the long term.

Humanitarian development always remains in the focus of attention of our country's governmental bodies. In April 2009, the conference of the Human Rights Commission under the President of the Republic of Kazakhstan discussed *National Action Plan on Human Rights* for 2009-2012. Representatives of the judiciary, lawyers, the police, and non-governmental organizations participated in developing the plan. The document covers practically all areas of society and consists of 22 chapters, which concern the political, social, cultural, and economic rights of Kazakhstan's citizens. Undertaking a project of this kind is a new experience for our country. The pro-

posals that have been made strengthen the power of lawyers, particularly with regard to people in need of free expert legal assistance.

The project analyses national legislation to examine its conformity with international human rights standards. As Kazakhstan is about to assume the Chairmanship of the OSCE, it is important that documents approved by Parliament and the government conform to international standards and fulfil the tasks set out by the head of the state in the programme *The Path to Europe*. The National Action Plan includes measures aimed at regulating the activities of governmental bodies as well as programmes on human rights that had been adopted earlier.

During discussions on this project, a decision was also taken to confirm the National Action Plan, which had been prepared by a working team, taking into consideration all the remarks and proposals made. We are planning to publish the National Action Plan on Human Rights in Kazakh, Russian, and English, and to distribute it widely in both Kazakhstan and abroad.

Together with the OSCE Centre, we organize annual training events and seminars in Astana for representatives of governmental and non-governmental bodies closely related to the area of human rights protection. For example, the recent training course for prosecutors drew particular interest. It imparted knowledge of international legal documents on co-operation in criminal justice, and on the global experience in the fields of customs, education, and health. Women's non-governmental organizations and organizations with a focus on protection and rehabilitation of the poor also receive considerable support from the OSCE Centre.

Kazakhstan's government pays particular attention to co-operation with non-governmental organizations. For this purpose, the Public Chamber of the *Mazhilis* was created and civil forums are held regularly. Kazakhstan's NGOs actively co-operate with ODIHR and the OSCE in discussing their duties in relation to the people.

There are some 4,000 religious communities in Kazakhstan, representing over 40 confessions, including both world and traditional religions. The congresses of leaders of world and traditional religions, held in Astana since 2003, have made a successful contribution to the growth of mutual understanding between religions. These forums receive support from the leaders of the main world religions and international organizations working on the development of communication between civilizations and cultures.

In July 2009, the Third Congress of Leaders of World and Traditional Religions took place in Astana, with the United Nations participating and lending technical support. The topic of the forum was "The Role of Religious Leaders in Building a World Based on Tolerance, Mutual Respect and Co-operation". Following a proposal from Kazakhstan, the UN General Assembly proclaimed 2010 to be the International Year for the Rapprochement of Cultures.

On the eve of Kazakhstan's Chairmanship, our institute, the Kazakhstan Institute for Strategic Studies (KazISS) under the President of the Republic of Kazakhstan, together with the OSCE Centre in Astana and Al-Farabi Kazakh National University, started to implement a three-year project, *2010: The Republic of Kazakhstan is the Chairman of the OSCE*. The purpose of this project is to attract authoritative Kazakh and foreign experts to participate in the discussion and to create recommendations on Kazakhstan's activities in the OSCE to be provided to the government of the Republic of Kazakhstan, the OSCE, and to governmental and non-governmental organizations. Its other purpose is to acquaint the general public in the Organization's participating States with the programme of Kazakhstan's Chairmanship of the OSCE.

In 2008, as part of this project, two international academic conferences took place at our institute. At the conferences, we considered the role and prospects of the OSCE in the contemporary world, and various concepts of security on the Eurasian Continent. In 2009, we held four conferences, at which we considered Kazakhstan's experience of achieving unity between ethnic and religious groups, democratization in Central Asian countries, the problems of regional security, and the tasks Kazakhstan has to perform during its OSCE Chairmanship.

The key questions currently being asked of the OSCE concern how it can be adapted to new international realities and how can it strengthen its comparative advantages. In the immediate future, the Organization's main task will be to strengthen its role in the global system of international relations. In our opinion, creating a Eurasian security area as part of a global security order is a very important step for the OSCE. To achieve this, it is necessary to collaborate effectively not only with the UN, EU, and NATO, but also with regional organizations such as the Conference on Interaction and Confidence-Building Measures in Asia (CICA), the Eurasian Economic Community (EAEC), the Collective Security Treaty Organization (CSTO), and the Shanghai Cooperation Organisation (SCO). We may also co-operate with such influential bodies as the Organisation of the Islamic Conference (OIC), over which Kazakhstan will preside in 2011. It should be noted that Kazakh diplomats currently occupy the position of general secretary in both the SCO and EAEC.

Kazakhstan is aware of the uniqueness of the OSCE. When it holds the Chairmanship, it will therefore continue developing the Organization's principal activities – politico-military, economic and environmental, and humanitarian. Our country supports the OSCE's efforts to strengthen civil society institutions and the rule of law and to promote democratic reforms in the participating States. Kazakhstan also thinks it is necessary to preserve ODIHR's mandate, supports proposals to regulate election monitoring, and believes that there must be representatives from all the OSCE countries in election monitoring missions and other OSCE structures.

In the early 1990s, Kazakhstan voluntarily renounced its nuclear potential – the fourth largest in the world. Our country remains an active supporter of regional security and will continue the policy of maintaining stability in the whole OSCE area, including Central Asia, which is an integral part of it.

Instability in Afghanistan is a matter of particular concern today. Kazakhstan is therefore planning to help the OSCE strengthen its role in managing the situation that has emerged in this country as a result of the recent conflict. Our country will also join the world community in combating the threat that comes from the territory of Afghanistan.

As to the OSCE's economic and environmental activities, Kazakhstan is planning to attract the Organization's attention to landlocked countries, whose further economic development depends on the development of their transport infrastructure. The solution of this problem is directly connected with energy security.

The world economic crisis makes the energy problem still more significant for further economic growth. Balancing the interests of the consumers and producers of energy resources is a key contemporary problem for the world community. As a major exporter of energy resources, Kazakhstan supports the diversification of export routes.

Kazakhstan shares the OSCE's concern about environmental protection. How to use water resources economically, how to follow ecological standards in the extraction and transport of hydrocarbons, and how to shift to alternative production technologies are the problems that must be at the centre of attention in the discourse of the OSCE.

In the human dimension, the OSCE has vital experience in preventing and overcoming ethnic and interdenominational crises that may help to overcome the divide between civilizations. Kazakhstan is a secular state and therefore strictly opposes discrimination of any kind, including on the ground of religion, provided that the activity of religious communities is transparent.

Since 2003, the main priorities of the participating States have been to reform the OSCE; overcome regional conflicts; combat terrorism, religious extremism, and drug trafficking; assist in combating human trafficking; and strengthen tolerance and religious freedom.

Ever since Kazakhstan applied for the Chairmanship of the OSCE, we have been systematically developing our programme. President Nazarbayev defined the purposes of Kazakhstan's Chairmanship of the OSCE at the *Tolerance Implementation Meeting on Promoting Inter-Cultural, Inter-Religious and Inter-Ethnic Understanding* that was held in Almaty in 2006:

- Taking into consideration the general political situation in Central Asia, Kazakhstan is ready to guarantee genuine and long-term security in the region.
- As the Republic of Kazakhstan has a positive experience of achieving accord between ethnic and religious groups, our country will aim at fur-

ther developing the dialogue between civilizations, acting as a bridge between East and West.

- The Republic of Kazakhstan is pursuing the path of democratic modernization of its political system, and is therefore ready to strengthen the potential of the OSCE, taking into consideration the interests of all participating States.

Kazakhstan will announce the programme for its Chairmanship of the OSCE in early January 2010, in conformity with the usual practice of the Organization. However President Nazarbayev and other official representatives of the country have already voiced the main ideas that will underpin the Kazakhstan Chairmanship's programme:

- to make a practical contribution to ensuring security and stability in the whole Eurasian area;
- to enhance the role and significance of Central Asia in the OSCE region and promote democratic values;
- to be ready to build on Kazakhstan's rich experience of presiding over number of regional organizations (CIS, EAEC, SCO, CICA) by organizing constructive co-operation of the OSCE with those regional organizations;
- to strengthen the role of the OSCE as a unique platform for dialogue between Europe and Asia.

In assuming the Chairmanship of the OSCE, Kazakhstan will thus adhere to a strategy of comprehensive co-operation, entering into constructive dialogue with all members of the global community, with an emphasis on trust and mutual understanding, and the overall goal of achieving stable development in the world.

External Relations and Influence

The Platform for Co-operative Security: Ten Years of Co-operation

At the last meeting of the Security Model Committee held in Vienna on 5 November 1999, when, after several years of deliberations the OSCE participating States agreed on the final touches to a draft *Charter for European Security*, including the *Platform for Co-operative Security*, the Finnish delegation made a statement on behalf of the European Union (EU) stressing that the EU considered the Platform to be “one of the most important elements of added value of the whole Charter process”.¹ Both documents were submitted for the approval of the Istanbul Summit on 18-19 November.

Despite this recognition of the Platform’s significance, until this year, which marks the document’s tenth anniversary, the Platform rarely received the attention it deserved. Yet its adoption has considerably boosted the OSCE’s co-operation with other international, regional, and sub-regional organizations and initiatives “concerned with the promotion of comprehensive security in the OSCE area”,² and has set in place a system and culture of interaction among organizations and institutions in the Euro-Atlantic space.

The recently renewed interest in the Platform has been prompted by Russian calls to employ it more actively to establish dialogue among organizations concerned with Euro-Atlantic and Eurasian security. The Platform, and relations among security organizations in the OSCE area more generally, have thus become an element in the evolving debate on the future of European security.

The Origin and Adoption of the Platform

The idea of a Platform for Co-operative Security was put forward by the EU. This initiative, however, was itself a response to a series of Russian proposals on “enhancing the effectiveness of the CSCE”, tabled at the end of 1993.³ Among other things, Russia proposed to incorporate a “principled provision

Note: The views presented here are the author’s own and do not necessarily reflect the positions of the OSCE or any of its structures.

1 *EU statement at the Security Model Committee on 5 November 1999*, PC.SMC/173/99.

2 Operational Document – the Platform for Co-operative Security, in: Organization for Security and Co-operation in Europe, *Charter for European Security*, Istanbul, November 1999, pp. 17-19, here: p. 17, at: <http://www.unece.org/trans/osce/osceunece/istachart99e.pdf>.

3 CSCE Forum for Security Co-operation, *Memorandum of the Ministry of Foreign Affairs of the Russian Federation regarding proposals to enhance CSCE effectiveness*, CSCE/FSC/SC.23, Vienna, 28 October 1993.

on the central role [author's note: also called 'the overriding responsibility'] of the CSCE in ensuring security and stability on the continent" in a political declaration to be adopted at the 1994 Budapest Summit; to have the CSCE co-ordinate the "efforts of the participating States and major regional institutions – the CIS, NACC, EU, CoE, NATO, and WEU"; to ensure "a genuine division of labour" between these organizations "on the basis of special agreements"; to transform the CSCE into a "fully fledged regional organization" and to elaborate its own Charter "as a legally binding document"; to create a "governing body of the CSCE with a limited membership similar to the UN Security Council" to be named "a CSCE Executive Committee" composed of no more than ten members (permanent and rotating), whose decisions would be taken unanimously and would have "the same binding nature as documents of the CSCE Council of Ministers"; and to represent the CIS in the CSCE structures and "develop a mechanism for coordination of the CIS and the CSCE practical activities".

These Russian proposals instigated protracted discussions in the CSCE/OSCE that ultimately led to the adoption of the *1999 Charter for European Security*, which includes the *Platform for Co-operative Security*.

As a first step, the 1994 CSCE/OSCE Summit in Budapest adopted a decision on *A Common and Comprehensive Security Model for Europe for the Twenty-First Century*,⁴ in which participating States pledged to launch a discussion on a new security model based on CSCE principles and commitments. In accordance with this decision, the Security Model Committee (SMC) was established and started its work in Vienna in March 1995. Up to the Istanbul Summit in November 1999, 59 meetings of the SMC had been held.

In 1995-96, general agreement was reached among participating States that one of the objectives of the new security model should be to substantially increase co-operation with other international organizations in accordance with the principles of equality, transparency, and flexibility, while taking into account the comparative advantages of each organization, thereby allowing a mutually beneficial and mutually reinforcing security network to emerge.⁵

In this context, in October-November 1996, the Irish Presidency of the EU submitted three papers containing the EU proposals. The third, issued on 25 November, was dedicated specifically to an *OSCE Platform for Co-operative Security*. In response to Russian ideas of a "division of labour" among international organizations with the OSCE playing a "coordination"

4 See *A Common and Comprehensive Security Model for Europe for the Twenty-First Century*, in: Conference on Security and Co-operation in Europe, 1994 Summit, Budapest, 5-6 December 1994, *Budapest Document 1994*, at: http://www.osce.org/documents/mcs/1994/12/4050_en.pdf.

5 See Swiss OSCE Chairmanship, Progress Report on the Security Model Discussion 1995-1996, in: Organization for Security and Co-operation in Europe, *The Security Model Discussion 1995-1996, Report of the Chairman-in-Office to the Lisbon Summit*, Lisbon, 30 November 1996, p. 4, at: http://www.osce.org/documents/mcs/1996/11/4229_en.pdf.

role, the EU papers advocated the concept of “mutually reinforcing security institutions” and “a cooperative relationship” among them. The OSCE was seen as “a forum for inter-institutional contact” that could provide an overall framework for dialogue. The EU proposal on an *OSCE Platform for Co-operative Security* outlined a set of principles that should be adhered to by all international organizations in order to “work cooperatively” with the OSCE.⁶ Practically all of those principles were later incorporated in the 1999 Platform.

Consequently, the 1996 Lisbon Summit adopted the *Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-First Century*, which reaffirmed that “European security requires the widest co-operation and co-ordination among participating States and European and transatlantic organizations”. As an inclusive and comprehensive organization and a regional arrangement under Chapter VIII of the UN Charter, the OSCE was recognized as “particularly well suited as a forum to enhance co-operation and complementarity among such organizations and institutions”. The Lisbon Declaration pledged to continue the work on the security model, including by “defining in a Platform for Co-operative Security modalities for co-operation between the OSCE and other security organizations”.⁷ The SMC was thus formally tasked to work on a Platform for Co-operative Security.

Throughout 1997, formal and informal discussions took place in the SMC framework, with the EU and Russian positions on the Platform getting gradually closer.

The US position was outlined in two papers circulated in November 1997. Regarding the Platform, the papers stated the need to identify “practical steps that the OSCE could take to enhance cooperation with other European security organisations [...] provided they share the OSCE’s commitment to transparency and democracy”. The USA stressed that the Platform “should articulate modalities of cooperation, as well as the criteria for involvement with partner institutions”, but should not attempt “to set out a rigid division of labor or establish a steering group for European security organizations”. In the US view, these criteria should include individual and collective adherence to OSCE principles and commitments, including “commitment to transparency and democracy as set out in the Helsinki Final Act”.⁸

6 Irish Presidency of the European Union, *Contribution made by Ireland on behalf of the European Union, at the Special Meeting of the Security Model Committee*, Vienna, 11 October 1996, REF.PC/656/96; Irish Presidency of the European Union, *Contribution to Lisbon Declaration on Security in Europe*, 15 November 1996, REF.PC/724/96; and Irish Presidency of the European Union, *OSCE Platform for Cooperative Security*, 25 November 1996, REF.S/34/96.

7 Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-First Century, in: Organization for Security and Co-operation in Europe, *Lisbon Summit 1996*, Lisbon, 3 December 1996, pp. 10-13, here: p. 12, at: http://www.osce.org/documents/mcs/1996/12/4049_en.pdf.

8 United States Delegation to the OSCE, *Non-Paper on Copenhagen Ministerial Declaration: Security Model Work for the Next Summit*, Vienna, 18 November 1997,

Other international organizations were also engaged in the OSCE discussions, in particular through an informal meeting of the SMC on 31 October 2007, in which they also participated. The meeting recognized the need to ensure complementarity between the principles and procedures of each organization, and broadly agreed to continue the work on the Platform, with the understanding that whatever type of co-operation framework is agreed, it should be non-hierarchical and on a voluntary basis.

Summarizing the year-long debates in the *Status Report by the Chairman of the Permanent Council on the Security Model discussion in 1997* to the Copenhagen Ministerial Council, the Danish Chairmanship emphasized that the work on a Platform had brought negotiations considerably forward, and stated that there was an emerging consensus on the major parts of the document. It was acknowledged that some delegations remained concerned that the Platform could directly or indirectly imply hierarchies between international organizations.⁹

The 1997 Copenhagen Ministerial Council adopted Decision No. 5 *Guidelines on an OSCE Document-Charter on European Security*, which set to “develop a comprehensive and substantive OSCE Document-Charter on European Security” that should be “politically binding,” and decided to “further strengthen non-hierarchical co-operation between the OSCE and other organizations within a Platform for Co-operative Security to be elaborated as an essential element of the Document-Charter”.¹⁰ Decision No. 5 contained Annex 1, *Common Concept for the Development of Co-operation between Mutually-Reinforcing Institutions*, which set out the parameters of the 1999 Platform.¹¹ Pending the elaboration of a Platform, the Ministerial Council tasked the Chairman-in-Office, in co-operation with the Secretary General, “to work actively to increase the OSCE’s co-operation with other international institutions and organizations [...] concerned with the promotion of comprehensive security within the OSCE area.”¹²

During 1998, negotiations on a Platform continued and the drafting process in the SMC framework was begun. On 3 July, another informal meeting of the SMC was held with the participation of other international organizations. Similarly to the October 1997 meeting, participants (including representatives of the CoE, WEU, NATO, and the CIS Executive Committee)

PC.DEL/103/97; and United States Delegation to the OSCE, *OSCE on the Eve of a New Century*, food-for-thought paper, Vienna, 26 November 1997, PC.SMC/39/97.

9 Status Report by the Chairman of the Permanent Council on the Security Model Discussion in 1997, in: Organization for Security and Co-operation in Europe, *Copenhagen 1997, Sixth Meeting of the Ministerial Council*, 18-19 December 1997, 16 March 1998, pp. 31-35, at: http://www.osce.org/documents/mcs/1997/12/4167_en.pdf.

10 *Decision on Guidelines on an OSCE Document-Charter on European Security*, MC(6).Dec/5, *ibid.*, pp. 18-23.

11 See *Common Concept for the Development of Co-operation between Mutually-Reinforcing Institutions*, Annex to MC(6).Dec/5, in: *ibid.*, pp. 22-23.

12 *Decision on Guidelines on an OSCE Document-Charter on European Security*, cited above (Note 10), p. 21, and *Common Concept for the Development of Co-operation between Mutually-Reinforcing Institutions*, cited above (Note 11), p. 22.

agreed that “co-operation should stem from the equality”, taking into account the particular identity of international organizations. The need to focus on pragmatic co-operation was stressed.

Given that policy and academic interest in subregional co-operation and the role it could play surged in 1996-99, the topic also attracted much attention within the OSCE. The EU non-paper circulated by the UK Presidency on 26 June 1998 argued that “the Platform should promote sub-regional co-operation, foster transparency and ensure that such co-operation is carried out in accordance with OSCE norms and principles”.¹³ On 14 July 1998, the Russian mission to the OSCE circulated a paper on *The Subregional Dimension of Security and Co-operation*. It recognized the potential of subregional efforts for strengthening stability and security, and suggested that the OSCE could be used as “a forum for practical interaction in subregional efforts within the Organization’s area”, including the establishment of a “Conference of Subregional Organizations and Associations” to meet once every two years at the OSCE’s headquarters.¹⁴ In the end, the participating States opted for a compromise solution. Summing up the results of discussions, the Progress Report by the Polish Chairman-in-Office to the Seventh Meeting of the OSCE Ministerial Council recognized a valuable contribution of regional/subregional co-operation to the “overall security of the OSCE community” and the agreement among delegations that the OSCE should support and encourage regional/subregional efforts by participating States. At the same time, the report acknowledged that consensus had not been found on a proposal to let the OSCE “exercise the powers and functions of a guarantor for implementation of regional/subregional agreements and decisions”. The proposal to establish a conference of subregional organizations and associations “also requires further study”. Similarly, on the idea of a Platform for Co-operative Security, the Chairmanship’s report stated that “the idea of establishing formal framework agreements between the OSCE and other international organizations as a basis for co-operation at all levels has not found support”.¹⁵

The protracted drafting of a Charter and a Platform was carried out throughout 1999 and lasted right until the Istanbul Summit. Delegations proposed numerous changes and drafting suggestions. In the autumn, documents containing these changes were circulated by the Norwegian Chairmanship almost on a weekly basis. Participating States continued to disagree on certain formulations and structure of the Charter, in particular on whether the

13 OSCE Document-Charter on European Security. Platform for Co-operative Security, PC.SMC/51/98, 26 June 1998.

14 Permanent Mission of the Russian Federation to the OSCE, *The Subregional Dimension of Security and Co-operation*, PC.SMC/70/98, 14 July 1998.

15 Chairman-in-Office’s Progress Report on the Work in 1998 on a Document-Charter on European Security, in: Organization for Security and Co-operation in Europe, *Seventh Meeting of the Ministerial Council*, 2-3 December 1998, Oslo, 3 December 1998, at: http://www.osce.org/documents/mcs/1998/12/4168_en.pdf, pp. 37-95.

Platform should be included in the main text (as preferred by Russia) or attached as an Annex to the Charter (as favoured by the USA), which itself should be a “concise and accessible” document. The EU Finnish Presidency proposed a “third option” which was to have “substantive language in the text and an annex”.

Ultimately, differences between participating States were ironed out, and the OSCE Istanbul Summit on 18-19 November 1999 adopted the annex entitled *Operational Document – Platform for Co-operative Security* as “an essential element” of the *Charter for European Security*.¹⁶ At the same time, participating States included a formula briefly mentioning “Co-operation with other organizations: the Platform for Co-operative Security” in the main text of the Charter.¹⁷

The Substance of the Platform

Since its adoption in November 1999 as an inseparable part of the *Charter for European Security*, the Platform has constituted the basis for the OSCE’s interaction with other organizations operating in the OSCE area. The Platform’s goal was defined as “to strengthen the mutually reinforcing nature of the relationship between those organizations and institutions concerned with the promotion of comprehensive security within the OSCE area”. Those were European security organizations, regional and sub-regional organizations and initiatives in the OSCE area, the UN and UN family institutions, and relevant specialized institutions. The Platform did not cover the OSCE’s relations with regional organizations outside the OSCE area or with the partner states; these relationships became the subjects of other OSCE documents.

The Platform acknowledged the extensive network of contacts already developed with other organizations and institutions and the growing co-operation among them. Proceeding from this, the OSCE participating States stressed their commitment to “even closer co-operation among international organizations” (paragraph 12 of the Charter) and pledged the OSCE “to further strengthen and develop co-operation with competent organizations on the basis of equality and in a spirit of partnership”.

The Platform plainly ruled out a hierarchy of organizations or a permanent division of labour among them. Instead, it promoted the concept of “mutually reinforcing security institutions”, through horizontal co-operation among equals, rather than a vertical interaction subordinating one organiza-

16 Operational Document – the Platform for Co-operative Security, cited above (Note 2). For a first analysis of the Istanbul Decisions see Victor-Yves Ghebali, *The Contribution of the Istanbul Document 1999 to European Security and Co-operation*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2000*, Baden-Baden 2001, pp. 289-305.

17 *Charter for European Security*, cited above (Note 2), pp. 5-6, paras 12 and 13.

tion to another. Organizations were meant to complement each other in order “to avoid duplication and ensure efficient use of available resources”.

The Platform was designed to serve four key functions. First, it identified a set of principles to which members of other organizations and institutions should adhere “individually and collectively” in order for the OSCE to “work co-operatively” with them. That set included the principles of the UN Charter and the OSCE principles and commitments; transparency and predictability of action in the spirit of the Vienna Document 1999; full implementation of the OSCE’s arms control obligations; transparency about the evolution of organizations and institutions; openness and free will of membership; support for the OSCE’s concept of common, comprehensive, and indivisible security and a common security space free of dividing lines. The Charter further emphasized that these principles “apply across all dimensions of security”. Pending the adherence to the above principles, the Platform maintained an inclusive and open approach to the OSCE’s co-operation with other organizations. It has however remained unclear who decides on which organizations fit the above criteria and which might not and the procedure for doing so.

Second, the Platform outlined general modalities of co-operation. Those listed were regular contacts, including meetings; a continuous framework for dialogue; increased transparency and practical co-operation, including the identification of liaison officers or points of contact; cross-representation at appropriate meetings; and other contacts. The Platform further stipulated that in addition, the OSCE “may engage in special meetings with other organizations, institutions and structures operating in the OSCE area. These meetings may be held at a political and/or executive level (to co-ordinate policies and determine areas of co-operation) and at a working level (to address the modalities of co-operation).” Aside from co-operation at headquarter level, the Platform also provided for co-operation between the OSCE and other organizations in field operations and co-operation in responding to specific crises. To that end, the participating States encouraged “the Chairman-in-Office, supported by the Secretary General, to work with other organizations and institutions to foster co-ordinated approaches that avoid duplication and ensure efficient use of available resources”. As Victor-Yves Ghebali summarized in his article, “the ultimate *raison d’être* of the Platform is the development in the OSCE area of a ‘culture’ of co-operation between international organizations pursuing analogous or complementary goals”.¹⁸ This in itself was a worthwhile objective given the existence in the OSCE area of a number of security and security-related organizations, often with overlapping membership.

Third, “recognizing the key integrating role that the OSCE can play”, the participating States offered the OSCE, as appropriate, “as a flexible frame-

18 Ghebali, cited above (Note 16), p. 304.

work for co-operation of the various mutually reinforcing efforts". This provision was reiterated both in the Platform and in the Charter.¹⁹

Finally, the participating States recognized that "subregional co-operation had become an important element in enhancing security across the OSCE area" and that subregional groupings "contribute to improved security not just in the subregion in question but throughout the OSCE area". The participating States supported "the growth in co-operation with these groups" based on the Platform and, in accordance with the Platform, offered the OSCE as "a forum for subregional co-operation" (paragraph 13 of the Charter). In this respect, the OSCE was expected to "facilitate the exchange of information and experience between subregional groups and may, if so requested, receive and keep their mutual accords and agreements".

So, while not as far-reaching as the original Russian proposals had anticipated, the 1999 Charter and the Platform have nevertheless defined a rather unique role for the OSCE vis-à-vis other international, regional, and subregional organizations and institutions operating in the OSCE area. The participating States did not agree to give the OSCE "the overriding responsibility" and to have it co-ordinate efforts of other organizations in the region, as proposed by Russia, but they entrusted the OSCE with being "a flexible coordinating framework to foster co-operation" and a "forum for subregional co-operation".

This role together with the principles and spirit of the 1999 Charter and Platform were further upheld and developed in the *OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century*, adopted at the 2003 Maastricht Ministerial Council. The Strategy reaffirmed that the 1999 Platform "remains fully valid" and that the OSCE's interaction with other organizations and institutions is based on the *Platform for Co-operative Security*. The Strategy contained a special section devoted to "Co-operation with other international organizations and institutions",²⁰ pledging that the OSCE "seeks to expand relations with all organizations and institutions that are concerned with the promotion of comprehensive security within the OSCE area." The Maastricht Strategy also restated the OSCE's function as "a forum for co-operation with sub-regional organizations in its area" and pledged that the OSCE "will continue to organize information-sharing and co-ordination meetings on specific topics with these organizations and institutions". Compared to the 1999 Charter and Platform, the 2003 Strategy has gone a step further by recognizing the increased importance of threats "originating or evolving in adjacent regions" and consequently pledging the OSCE to "consider ways in which OSCE norms, principles, commitments and values could

19 The text of the Charter (paragraph 12) defines the OSCE as a "flexible co-ordinating framework to foster co-operation, through which various organizations can reinforce each other drawing on their particular strengths".

20 *OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century*, at: http://www.osce.org/documents/mcs/2003/12/17499_en.pdf, pp. 9-10, paras 52-57.

be shared with other regions” and to develop further contacts with regional organizations beyond the OSCE area.

Operationalization and Implementation of the Platform

Carrying out the Istanbul Summit decision on the Charter and the Platform required certain organizational adjustments within the OSCE. As a first step, on 29 June 2000, the Permanent Council adopted the decision on “Strengthening of OSCE Operational Capacities”, which placed the Section for External Co-operation (which was created in 1999) “under the direct supervision of the Secretary General” and gave it responsibility for the “implementation of the modalities of co-operation in accordance with part II of the Operational Document of the Charter for European Security”.²¹ By taking such early action, the participating States made a clear demonstration of the importance and seriousness they attached to co-operation with other organizations and to the rapid operationalization of the Platform. In fulfilling the task assigned, the Section has started to serve as the first point of contact in the OSCE for other international, regional, and subregional organizations, maintaining contacts and developing co-operation with them, including through headquarters-level meetings. In 2002, the Porto Ministerial Council mandated the Chairmanship with clear responsibility “for the external representation of the OSCE”, and further clarified that “in order to ensure effective and continuous working contacts with other international organizations and institutions” the Chairmanship shall “be assisted by the Secretary General, to whom representational tasks are delegated as appropriate”.²²

Of most significance, however, is the fact that the adoption and implementation of the Platform has significantly enhanced OSCE’s interaction with other international, regional, and sub-regional organizations, based on the modalities listed in the Platform.

Initial contacts between the CSCE/OSCE and other organizations were established as early as at the beginning of 1990s and have developed since then. Already in the *Summary of Conclusions of the Berlin Meeting of the CSCE Council* on 19-20 June 1991, the participating States encouraged “the exchange of information and relevant documents among CSCE and the main European and transatlantic institutions, such as the European Community,

21 Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 364, *Strengthening of OSCE Operational Capacities (REACT, Operation Centre, Restructuring of the OSCE Secretariat)*, PC.DEC/364, 29 June 2000, p. 3.

22 Decision No. 8, Role of the OSCE Chairmanship-in-Office, MC(10).DEC/8, in: Organization for Security and Co-operation in Europe, *Tenth Meeting of the Ministerial Council*, 6 and 7 December 2002, Porto, 7 December 2002, pp. 48-50, here: p. 49, at: http://www.osce.org/documents/mcs/2002/12/4174_en.pdf.

Council of Europe, [UN] ECE, NATO and WEU”.²³ The starting point for more regular contacts between the CSCE/OSCE and other international organizations was the 1992 Prague Meeting of the CSCE Council, which welcomed “as guests of honour”²⁴ the representatives of the UN, UNECE, CoE, WEU, NATO, OECD, and European Bank for Reconstruction and Development (EBRD), and included in the *Prague Document on Further Development of CSCE Institutions and Structures* a special section on CSCE relationship with international organizations.²⁵ Since then, references to co-operation with other international organizations have regularly been included in CSCE/OSCE Ministerial Council and Summit documents. In addition, in the mid-1990s the first regular frameworks for dialogue were established with the CoE and the UN: The first high-level Tripartite meeting of the OSCE, UN, and CoE was convened in 1993; the first OSCE-CoE high-level 2+2 meeting took place in 1995; and the OSCE-CoE annual meeting at the level of senior officials was launched in 1998. Thus, since the mid-1990s, OSCE co-operation with other international organizations has become a growing trend.

However, it was only with the adoption of the 1999 *Platform for Co-operative Security* that this co-operation came to rest on a solid political foundation, and it has since intensified immensely, including through regular political and working-level consultations at headquarters level and practical co-operation in the field.

As to the former, regular bilateral frameworks for consultations and the exchange of information and experiences were developed with (as well as the CoE) the UN, the EU, and NATO. In 1999, the practice of annual addresses by the OSCE Chairperson-in-Office and by the Secretary General to NATO’s North Atlantic Council (NAC) and/or Euro-Atlantic Partnership Council (EAPC) was established, and regular OSCE-NATO staff-level consultations were set up. The following year, the Secretaries General of the OSCE and the CoE signed the *Common Catalogue of Co-operation Modalities*, while the OSCE Chairperson-in-Office started a tradition of addressing annually the UN Security Council. In 2001, an annual OSCE-UN staff-level meeting was launched. In 2002, regular meetings (under each EU Presidency) of the OSCE-EU Ministerial and Ambassadorial Troikas were established, and in 2003 they were supplemented with the OSCE-EU annual staff-level meeting.

On the ground, practical co-operation and, where necessary, joint activities have become common practice. Some of the most recent and visible

23 Berlin Meeting of the CSCE Council, 19-20 June 1991, Summary of Conclusions, in: *First Meeting of the Council*, pp. 2-8, here: p. 3, para. 13, at: http://www.osce.org/documents/mcs/1991/06/4138_en.pdf.

24 Prague Meeting of the CSCE Council, 30-31 January 1992, Summary of Conclusions, in: *Second Meeting of the Council*, Prague, 1992, pp. 1-12, here: p. 1, at: http://www.osce.org/documents/mcs/1992/01/4142_en.pdf.

25 See *Prague Document on Further Development of CSCE Institutions and Structures*, in: *ibid.*, pp. 13-21, here: p. 20, section IX.

examples of successful interaction include the close co-operation developed between the OSCE, the UN, and NATO in Kosovo, where the OSCE Mission (OMiK) has served as the institution-building pillar of the UN Mission (UNMiK), while the NATO-led Kosovo Force (KFOR) has provided a security environment for the international community, including OMiK; joint work with the CoE on local government development in South-eastern Europe; and until recently the work side by side in Georgia of the OSCE military monitors with the EU Monitoring Mission (EUMM).²⁶

Based on shared values and common interests, the OSCE has developed particularly close relationships with the UN, the EU, NATO, and the CoE. These four were named specifically in the 2003 Maastricht Strategy, where the participating States acknowledged that the OSCE “has established regular patterns of consultation at both the technical and the political levels” with a number of international organizations and institutions, “*inter alia*, the UN, EU, NATO and the Council of Europe”.²⁷ Of all the organizations invited to attend the OSCE Ministerial Council Meetings, only the UN, EU,²⁸ NATO, and the CoE are invited to attend the meetings and make contributions (i.e. are given a floor to address the Ministerial Council), while all other organizations are invited to attend the meeting and, if they so wish, make written contributions. Furthermore, it is only with the UN (and its family institutions) and the CoE that the OSCE relations have been formalized in Permanent Council decisions or through specific agreements, such as exchanges of letters or memoranda of understanding (MoU). With the CoE in particular, the participating States decided in 2004 to establish a Co-ordination Group consisting of permanent representatives from the OSCE Troika and the current and incoming Chair of the CoE to meet twice a year to examine co-operation between the two organizations and make recommendations on how to foster it, in particular in priority areas.²⁹

With other international, regional, and sub-regional organizations and initiatives, the OSCE’s relations are more ad hoc in nature. These relations are, nevertheless, quite dynamic, comprising the OSCE’s participation, upon invitation, in summits and ministerial meetings of other organizations, the invitation of those organizations to OSCE Ministerial Councils and other relevant events, and the exchange information and experience. The list of such organizations is long and includes the Central European Initiative (CEI), the Commonwealth of Independent States (CIS), the Collective Security Treaty Organization (CSTO), the Organization for Democracy and Economic

26 Although the OSCE Mission to Georgia was closed, the OSCE continues to co-chair the Geneva process, together with the EU and the UN.

27 *OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century*, cited above (Note 20), p. 9, para. 54.

28 The EU is invited to speak by virtue of the special arrangements for its representation within the EU Presidency Delegation to the OSCE.

29 Four areas were identified as such: the fight against terrorism, combating trafficking in human beings, the protection of the rights of persons belonging to national minorities, and promoting tolerance and non-discrimination.

Development – GUAM,³⁰ the Organization of the Black Sea Economic Cooperation (BSEC), the Regional Cooperation Council (RCC), the South-East European Cooperation Process (SEECP), and others. Detailed information on all contacts and co-operation of this kind, including by OSCE institutions and field operations, is provided in the annual report on interaction between organizations and institutions in the OSCE area that the 1999 Platform tasked the Secretary General to prepare.³¹

In implementing the provisions of the 1999 Charter and the Platform, which described the OSCE as a “flexible co-ordinating framework to foster co-operation” and a “framework for sub-regional co-operation”, the OSCE Chairmanship and the Secretary General convened several co-ordination and information-sharing meetings with international, regional, and sub-regional organizations. For example, in 2000 and 2003, the OSCE Secretary General hosted two information-sharing meetings with international organizations and international financial institutions on Central Asia. These provided valuable opportunities to exchange views and share information on the priorities of OSCE participating States in Central Asia and the activities of international organizations in the region, and to seek ways to improve co-operation and co-ordination. In June 2002, the Portuguese OSCE Chairmanship organized a high-level meeting on the prevention and combat of terrorism in Lisbon, with the participation of the UN, EU, NATO, CoE, CIS, and the Financial Action Task Force on Money Laundering (FATF). The Annual Security Review Conference (ASRC) launched in 2003 has since become a regular forum to review security issues in the OSCE area, to which a number of security-related organizations have been invited on a regular basis: the UN (and its family institutions, in particular UNODC), the EU, NATO, the CoE, the CIS, the CSTO, and GUAM. The OSCE Special Representative on Combating Trafficking in Human Beings has convened the annual meeting of the Alliance against Trafficking since 2004, which serves as a platform for joint advocacy by international and regional organizations dealing with combating trafficking in human beings.

In the field, the Conflict Prevention Centre (CPC) has, since 2002, regularly organized sessions or whole-day meetings with locally-based representatives of the international organizations within the setting of the OSCE regional Heads of Mission meetings in Central Asia to share information about mutual activities and plans for the future. Since 2003, a similar practice has been followed in South Caucasus.

In accordance with the provisions of the 1999 Charter and the Platform, which promoted the OSCE as a “forum for subregional co-operation”, the OSCE Secretary General initiated the high-level meeting with (heads of) re-

30 Georgia, Ukraine, Azerbaijan, and Moldova.

31 For the latest issue see: Interaction with organizations and institutions in the OSCE area, in: Organization for Security and Co-operation in Europe, *Annual Report 2008*, pp. 96-101, at: http://www.osce.org/publications/sg/2009/04/37053_1269_en.pdf.

gional and subregional organizations and initiatives on preventing and combating terrorism, which was convened in Vienna in September 2002. The purpose of the meeting was to exchange information on ongoing and possible future activities and projects that regional and subregional groupings were carrying out or planned to undertake in the area of preventing and combating terrorism, and to discuss and identify areas and modalities for closer co-operation in the future. It was the first ever meeting by the OSCE in which regional and subregional organizations and initiatives from all across the OSCE area participated: the Adriatic-Ionian Initiative (AII), BSEC, the Central Asian Cooperation Organization (CACO), the Central Europe Initiative (CEI), the Council of the Baltic Sea States (CBSS), CSTO, GUAM, the Southeast European Cooperative Initiative (SECI), the SEECP, and the Stability Pact for South Eastern Europe. Following on from the agreements reached at this meeting, the OSCE's Action against Terrorism Unit (ATU) organized two round-tables in 2006 and 2007, bringing together counter-terrorism practitioners from regional and sub-regional organizations to network, exchange information, and share experiences and best practices.

The fact that partner organizations have started to consult more regularly with the OSCE in recent years and to include language on the OSCE in their policy documents is yet another encouraging sign testifying to the improvements made in co-operation and co-ordination between these organizations and the OSCE, and to their recognition of the OSCE's contribution to strengthening security and stability in its area of responsibility. For example, the UN General Assembly has regularly adopted a resolution on UN co-operation with the OSCE, reflecting the state of co-operation between the two organizations.³² NATO explicitly recognized that its relations with the OSCE are governed by the *Platform for Co-operative Security*,³³ and in 2003 NATO's senior political body, the NAC adopted a special document on enhancing the relationship with the OSCE. In the same year, the EU Council of Ministers adopted conclusions on EU-OSCE co-operation in conflict prevention, crisis management, and post-conflict rehabilitation, which outlined the guiding principles, specific areas, and modalities of EU-OSCE co-operation. In more recent years, some EU policy documents, such as the 2004 European Neighbourhood Policy (ENP) and the 2007 Strategy for a New Partnership with Central Asia, contained specific references to co-operation with the OSCE, while in 2009, the OSCE was for the first time formally invited to join as a permanent participant in the work of the Platform on Democracy, Good Governance and Stability within the framework of the EU Eastern Partnership.

32 No such resolution has, however, been adopted since 2002, which mirrors the consistent failure of the OSCE participating States to agree on the text of a joint political declaration as had traditionally been adopted at the year-end OSCE Ministerial Council. 2002 was a last year when such declaration was agreed by the OSCE.

33 Cf. *NATO's relations with the OSCE*, at: <http://www.nato.int/issues/nato-osce/index.html>.

2009 marks the tenth anniversary of the adoption of the 1999 *Charter for European Security* and *Platform for Co-operative Security*. From today's perspective, it would be safe to conclude that the Platform has passed the test of time. As highlighted above, the co-operation modalities articulated in the Platform have to a great extent been put into practice in the daily work of the OSCE and its co-operation with international, regional, and subregional organizations and initiatives "concerned with the promotion of comprehensive security in the OSCE area". Moreover, a decade after its adoption, the Platform maintains its value and continues to provide a solid foundation on which further efforts can be built in developing co-operation among organizations in the OSCE area.

The Platform's anniversary is an appropriate occasion to reaffirm the letter and spirit of the document, as well as the participating States' continuing commitment to maintaining and developing close co-operation and co-ordination with partner organizations, based on the principles and modalities enshrined in the Platform. Taking advantage of such an occasion, the participating States could also reiterate and refresh a role they gave to the OSCE back in 1999 as a "flexible co-ordinating framework" and a "forum for subregional co-operation". As to the latter, it might be timely to convene another OSCE meeting with heads of regional and subregional organizations and initiatives that operate in the OSCE area to summarize the experience and role of subregional co-operation over the past two decades and the contribution that subregional groupings have made to strengthening security and co-operation in the OSCE area.³⁴

The past ten years have proved that when there was a pressing need, the OSCE's partner organizations have been very responsive to the Organization's initiatives to get together to share information, experiences, and plans and to co-ordinate relevant activities. It has proved problematic, however, to convene such co-ordination and information-sharing meetings on a regular basis, especially at a high level, partly due to existence of other "co-ordinating" frameworks, such as the annual high-level tripartite meeting (originally UN, OSCE and CoE, but which has expanded over the years to include many more than the three founding organizations) or the high-level meetings of the UN Secretary-General with regional and other intergovernmental organizations (which, however, has not been convened since 2007). The lesson here is pretty straightforward: The framework for co-operation and co-ordination among international organizations should indeed remain flexible and be driven by specific needs rather than someone's ambitions or

34 On the early assessment of subregional co-operation in Europe see: Andrew Cottey (ed.), *Subregional Cooperation in the New Europe: Building Security, Prosperity and Solidarity from the Barents to the Black Sea*, New York 1999, and Renata Dwan/Oleksandr Pavliuk (eds), *Building Security in the New States of Eurasia*, New York 2000.

political prescriptions. When a given initiative (e.g. the proposal in the 2003 Maastricht Strategy “to establish a new ad-hoc consultative mechanism”) was perceived as untimely and/or offering no added value, the response from partner organizations was lukewarm. Here it would also be appropriate to mention the general reluctance of international organizations to be “co-ordinated” and a certain natural tendency for inter-institutional competition.

The tenth anniversary of the Platform could also be a moment to reflect in practical terms on certain current dilemmas and challenges regarding OSCE co-operation with other international, regional, and sub-regional organizations and institutions. How can increased demand for this co-operation be accommodated while participating States are unwilling, understandably in a time of financial constraints, to put more resources behind this co-operation? How can a balance be struck between the reluctance of some participating States to have “too many” regular meetings with other organizations and the growing need and importance to “foster co-ordinated approaches that avoid duplication and ensure efficient use of available resources”? How should co-operation with those organizations that actively seek institutionalization and/or formalization of their relationship with the OSCE be managed while the participating States give strong preference to practical and results-oriented co-operation and do not support signing MoUs and other co-operation agreements or launching new sets of regular meetings? And what should be done in the even more extreme case when there is no unanimity among participating States on the added value of OSCE co-operation with another organization? Would it be appropriate to establish which decisions in the area of external co-operation rest with the Chairmanship and the Secretary General and which are prerogatives of the OSCE “collective decision-making bodies”?

How can co-ordination with partner organizations in conflict prevention and in actual crisis situations be improved? It is often on the eve of and during crises that organizations tend to be less successful in co-ordinating their efforts. Although the Platform has encouraged relevant organizations and institutions “to keep each other informed of what actions they are undertaking or plan to undertake to deal with a particular situation”, the reality is often too complex and rapidly evolving to leave much time for consultations (especially since it often takes time to shape collective responses within organizations themselves given the diversity of views and interests of member states).

In the end, co-operation between organizations is very much dependent on the temperature of relations among their members. From this perspective, the Platform and co-operation among international organizations and institutions in general constitute an integral part of the overall notion of co-operative approach to security. The concept itself rests on the underlying premise that security of each state is inseparably linked to that of all others and therefore that co-operation is beneficial to all states.

The basic principle of co-operative security in Europe was proclaimed in general terms in the CSCE *Charter of Paris for a New Europe* (November 1990), which announced a “new era of democracy, peace and unity”. With the end of Cold War and – as it was viewed in those days – the end of the division of Europe, the CSCE participating States committed themselves to strive for “a new quality in our security relations” and to “co-operate in strengthening confidence and security”.³⁵ By adopting in 1999 the *Charter for European Security* and the *Platform for Co-operative Security*, the Istanbul Summit was the culmination of a decade-long effort to promote a co-operative approach to security threats and challenges on the continent. In that sense, the Charter and the Platform symbolized the high point of co-operative security in Europe.

Since then, the concept and practice of co-operative security in Greater Europe have been gradually eroding. As some states started to question the commitments they had made, as growing differences emerged on traditional security threats and threat perceptions, and as the notion of “common values” became more of a slogan from the past than current reality, co-operative security has proved to be too difficult a task to pursue. The shocking terrorist attacks on 11 September 2001 seemed to convince all once again that “no single State or organization can, on its own, meet the challenges facing us today”.³⁶ That fresh co-operative spirit was reflected in the decisions made at the Bucharest, Porto, and Maastricht OSCE Ministerial Council Meetings, with the Maastricht Strategy representing, for the time being, the last major milestone document in co-operative security. But as this approach requires more than simply co-operation, that moment of solidarity turned out to be brief, revealing the practical limits of co-operative security. The latter is arguably meant to be based on the commonality of values and interests or, as some students of the subject put it: “Co-operative security can only take place when countries develop a sense of a common future”.³⁷

The call by President Dmitry Medvedev of Russia in June 2008 to conclude a legally binding treaty on European security (whatever might be the outcome of this initiative) has given a new impetus to discussions of European security. The participating States have decided to anchor the debate in the OSCE by launching the informal “Corfu Process”, which is aimed at restoring trust and confidence among the 56.

The evolving discussion on European security has revitalized interest in the *Platform for Co-operative Security* and in interaction among organiza-

35 *Charter of Paris for a New Europe*, Meeting of the Heads of State or Government of the participating States of the Conference on Security and Co-operation in Europe (CSCE), Paris, 19-21 November 1990, pp. 3 and 5, at: http://www.osce.org/documents/mcs/1990/11/4045_en.pdf.

36 *OSCE Strategy to Address Threats to Security and Stability in the Twenty First Century*, cited above (Note 20), p. 9, para. 52.

37 Michael Michalka, *Cooperative Security: From Theory to Practice*, in: Richard Cohen/Michael Michalka, *Cooperative Security: new Horizons for International Order*, The Marshall Center Papers, No. 3, April 2001, pp. 29-67.

tions dealing with security in the OSCE area in general. The very fact that the OSCE is deemed to be an appropriate forum for debates on the future of European security can be also attributed to the role the Organization was given by the 1999 Platform and to the nature of relationships it has developed with other organizations over the past ten years on that basis. The relevance of the Platform was further reiterated by the 17th OSCE Ministerial Council Meeting in Athens on 1-2 December 2009.

The Ministers adopted a Ministerial Declaration on the OSCE Corfu Process that welcomed “the valuable contributions of all relevant organizations and institutions dealing with security, on the basis of the Platform for Co-operative Security”.³⁸ They took a Decision on furthering the Corfu Process that identified “interaction with other organizations and institutions, on the basis of the 1999 Platform for Co-operative Security” as one of eight issues on which the future dialogue will focus. The decision also provided that international, regional, and sub-regional organizations and institutions will be invited to contribute on an ad hoc basis to the discussions in the framework of the Corfu Process.³⁹

The Athens Declaration and Decision on the Corfu Process have opened the way to involving organizations “concerned with the promotion of comprehensive security in the OSCE area” in the Corfu Process, in the truly inclusive, equal, transparent, and comprehensive spirit that the Platform stands for. Such involvement and the continuation of the Corfu Process could become a good opportunity to take stock of the past ten years of co-operation among organizations in the OSCE area, to have them present their views on contemporary security threats and challenges, and to create a new political momentum to interaction among them.

Yet, whether the debate on European security could ultimately strengthen the OSCE as a pan-European and transatlantic forum for co-operative security, revive the very concept and establish a genuine practice of co-operative security, based on the commonality of values and interests and on “a sense of a common future”, remains to be seen. The task of creating “a common security space free of dividing lines in which all States are equal partners” is still on the agenda.

38 Organization for Security and Co-operation in Europe, Ministerial Council, Athens 2009, *Ministerial Declaration on the OSCE Corfu Process*, MC.DOC/1/09, 2 December 2009, p. 2, at: http://www.osce.org/documents/cio/2009/12/41848_en.pdf.

39 Organization for Security and Co-operation in Europe, Ministerial Council, Athens 2009, *Decision No. 1/09, Furthering the Corfu Process*, MC.DEC/1/09, 2 December 2009, at: http://www.osce.org/documents/cio/2009/12/41864_en.pdf.

Current Activities of the Council of the Baltic Sea States Task Force against Trafficking in Human Beings

The Council of the Baltic Sea States (CBSS)¹ appreciates this opportunity to present an account of its role in the development of one of the most dynamic regions in Europe.

The CBSS was founded in 1992 as a response to the geopolitical changes that were taking place in the Baltic Sea region following the end of the Cold War. The scope of our co-operation has much in common with the Helsinki process.

The CBSS has achieved concrete results in a number of fields, including combating trafficking in human beings (adults and children); enhancing energy dialogue between EU and non-EU countries in the region; alleviating regional barriers to trade and investment; improving nuclear and radiation safety; building confidence through cross-border co-operation; and transforming curricula and teaching methods through the EuroFaculty Programme in Kaliningrad and now also in the Russian city of Pskov.

This article will highlight one topic where CBSS activities complement the efforts of the OSCE, namely in the fight against trafficking in human beings, which is one of the most pressing global issues today and requires a concerted and comprehensive response.

At the 15th Ministerial Session of the Council of the Baltic Sea States in Denmark, in June 2009, the importance of concrete co-operation in the fight against trafficking in human beings was specifically stressed by eight CBSS Member States: Denmark, Estonia, Germany, Iceland, Latvia, Lithuania, Norway, and Sweden, and two CBSS Observer States: France and Spain. There is still much to be done in the field of counter-trafficking and, as Norway noted in its intervention, raising the issue at the political level, ratifying conventions, and linking counter-trafficking work with existing instruments on transnational crime are all important activities worth focusing on. In this context, the declaration made by the ministers underlined the importance of continued, forceful efforts to prevent and combat all forms of trafficking in human beings, thereby showing the ongoing commitment of the CBSS in this area.

Note: The views contained in this contribution are the author's own and do not necessarily reflect the positions of the Council of the Baltic Sea States or its Task Force against Trafficking in Human Beings.

- 1 The CBSS is a forum for multilateral intergovernmental co-operation in the Baltic Sea region. The members are Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, Russia, Sweden, and the European Commission. The organization also has ten observer states: Belarus, France, Italy, the Netherlands, Romania, Slovakia, Spain, Ukraine, the UK, and the US. The CBSS website is at: <http://www.cbss.org>.

What is Trafficking in Human Beings?

The lack of an international consensus on a comprehensive definition of trafficking in human beings was a major challenge until the year 2000, when the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime came into force. According to Article 3 (a) of the UN Protocol, trafficking in persons shall mean “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.²

Why Does Trafficking in Human Beings Exist?

The causes and contributing factors responsible for the existence of trafficking in human beings are manifold and complex. Although trafficking in human beings and internal and external migration are two separate subjects, they are nevertheless highly interconnected. Trafficking in human beings is very often linked to the individual experiences of trafficked victims, who are on the search for better living conditions in their own or a foreign country. This pressure to migrate and other contributing factors explain the growing risk of migrating persons getting into vulnerable situations. In this context, it is very important to look at both the reasons why people are migrating and the objectives of the traffickers, who take advantage of the vulnerable situations of migrating persons. In the key literature on trafficking in human beings, all these different reasons are described as contributory (but not sufficient) pull and push factors. Pull factors include the demand for (cheap) labour and services and the availability of better opportunities. Examples of push factors are poverty, unemployment, a lack of education, the lack of opportunities, gender-based discrimination, economic imbalance between wealthy and poor countries, war, political instability, and corruption. In addition to push and pull factors, there are other contributing factors such as the availability of high profits at low risk for the traffickers; corruption, organized

2 United Nations Office on Drugs and Crime, *United Nations Convention Against Transnational Organized Crime and the Protocols thereto*, Annex II, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime Article 3. Use of Terms (a), available at: <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>.

crime and a lack of legal instruments; and restrictive migration and immigration policies.

Who Is Being Trafficked?

It is important to note that human trafficking can affect anyone, regardless of gender, age, nationality, ethnicity, or other affiliation. Women, men, boys, and girls can all become victims of human trafficking. With that said, trafficking in human beings is not gender-neutral. In most countries of the world, women

- tend to be overrepresented in the informal employment sector and in self-employment where jobs are lower-paid and less secure;
- are likely to be covered less effectively by social security schemes;
- are prevented from entering traditional male occupations;
- are prevented from reaching higher positions;
- face high gender wage gaps;
- are more affected by unemployment and thus poverty;
- face more gender-based discrimination than men; and
- are more likely than men to be affected by gender-based violence;
- due to inadequate income, rising living costs, and the absence of fathers, women are also increasingly becoming families' sole bread-winners.

For all these reasons, women are more at risk of and vulnerable to trafficking in human beings. Furthermore, they are also affected differently when it comes to the economic sectors they are trafficked into, the forms of exploitation they are exposed to, and the consequences they face after their exploitation ends.

Nevertheless, trafficking in men has recently tended to increase. Whereas women are mostly subject to trafficking for sexual and domestic services, men are mainly exposed to trafficking for labour exploitation in areas such as construction, mining, and dockyard labour, i.e. manual work associated with a high degree of informal labour relations and long subcontracting chains. This type of trafficking is on the increase across all of the categories above.

Men and women are more or less equally affected by trafficking for the removal of human organs. It is also important to bear in mind that children and adolescents are especially vulnerable to human trafficking but that the forms of exploitation may differ in their cases.

What is the Difference Between Trafficking in Human Beings and People Smuggling?

The distinction between trafficking in human beings and people smuggling is the subject of constant confusion, although there is a significant difference between these two phenomena. Whereas the smuggling of migrants involves people who have consented to be transported irregularly, trafficking victims have either never consented or, if they initially did, the consent has been rendered meaningless by the coercive, deceptive, or abusive actions of the traffickers. Furthermore, in general, smuggling ends with the migrants' arrival at their destination, whereas trafficking involves the ongoing exploitation of the victims to generate profits. Of course, smuggled persons often also become victims of human rights violations and may subsequently become trafficked. Last but not least, smuggling in persons is always transnational, whereas trafficking in human beings may also occur within the same country.³

The CBSS Task Force against Trafficking in Human Beings

To counteract trafficking in human beings, the Council of the Baltic Sea States is taking action to produce a regional response to the problem. The CBSS Task Force against Trafficking in Human Beings (CBSS TF-THB) provides a platform for enhanced co-operation in combating human trafficking between countries of origin, transit, and destination in the region. The overall objective of the TF-THB is to counteract trafficking in human beings in the Baltic Sea region through preventive and protective activities. The Task Force is composed of national experts on human trafficking from relevant ministries throughout the region. The mandate is to fight trafficking in human beings, focusing on adults, for all forms of exploitation by fostering action and enhanced co-operation in the region and its near vicinity. The TF-THB follows the UN Protocol definition of human trafficking and bases its work on the Council of Europe Convention on Action against Trafficking in Human Beings.

Background

The CBSS Task Force against Trafficking in Human Beings is the only regional intergovernmental forum in Europe of its kind dealing with trafficking in human beings. The TF-THB brings together EU and non-EU member states, which are all differently affected by trafficking in human beings and

3 Cf. United Nations Office on Drugs and Crime (UNODC), *Trafficking in Persons. Global Patterns*, April 2006, p. 52.

constantly exchange experiences with international and nongovernmental organizations.

The TF-THB builds on the work of the previous Nordic Baltic Task Force against Trafficking in Human Beings. The Task Force initiated the Nordic Baltic Pilot Project, with the European Women's Lobby as the head implementer, which was intended as a capacity-building instrument focusing on the development and implementation of measures for the protection and safe return of victims.

In 2006, the heads of government welcomed the initiative to integrate the work of the previous Task Force in the CBSS framework, and by doing so to include Germany, Poland, and Russia in the co-operation.

Current Trends in Human Trafficking in the Baltic Sea Region

Trafficking in human beings is a global problem. Nevertheless, variations can be found with respect to (sub)regions and countries of origin, transit, destination, and the degree of internal trafficking. The states of the Baltic Sea region are all affected by trafficking in human beings. Every year women, men, and children are trafficked to, through, or from the CBSS region for the purpose of exploitation. Furthermore, the region is subject to constant changes in the patterns of human trafficking and the forms of victimization. This is particularly due to global economic changes and the inventiveness of organized crime structures.

One observed trend is that countries which used to be predominantly countries of origin in this region are increasingly also becoming countries of transit and destination for human trafficking, as they are facing a higher influx of trafficked persons from neighbouring countries. A significant number of CBSS countries are now also reporting the growth of internal trafficking in their countries, typically from rural to urban areas, for various forms of exploitation.

Although trafficking for sexual exploitation is still the major problem, a majority of CBSS countries are reporting a substantial increase of trafficking for labour exploitation, and here we need to improve our collective knowledge.

We also need more information about trafficking in men. Trafficking in men, especially for labour exploitation in areas such as construction and mining or the restaurant industry is increasing. The authorities and organizations involved in combating this need more information and tools to be able to reach out and provide assistance to this group.

Countries are also reporting an increase in trafficking for multiple exploitation, where the victims are subject to more than one form of exploitation. An example of this could be that people are forced to perform labour as hotel cleaners during the day time and then provide sexual services at night.

One general trend is that trafficking for forced begging is increasing, often involving the abuse of disabled people and other vulnerable groups. It has also been observed that the profits which the organizers of the crimes receive from forced begging are sometimes used to support or finance trafficking in human beings for other forms of exploitation.

It has furthermore been observed over the last few years that the treatment of the victims has changed. The organizers today tend to use less direct violence and force over the victims but are instead applying other forms of indirect coercion. Women who have been trafficked for sexual purposes are, for example, reporting that they are allowed more freedom to move and also to keep some of their earnings. This in no way means that these people are not victims of trafficking or that their rights are being respected more by the traffickers. It is rather a more sophisticated means of manipulation that makes it easier for the traffickers to build a relationship and keep control over the victims.

What is not new but has been highlighted lately is the fact the former victims of trafficking, especially for sexual purposes, are becoming organizers of the same crimes that they once fell victims to. To a large extent these organizers are women.

The Mandate of the CBSS Task Force against Trafficking in Human Beings

The mandate of the TF-THB is to combat trafficking in human beings and all the associated forms of exploitation. Its activities aim at strengthening assistance to victims, promoting co-operation, abolishing gaps in existing approaches, and improving legislation. The Task Force is mandated to fight trafficking for all forms of exploitation. The focus is on people over the age of 18, and it can therefore be seen to complement the work of the Expert Group for Cooperation on Children at Risk (EGCC).⁴ The Task Force is composed of experts from relevant Government ministries in all the CBSS capitals. The Chair of the TF-THB rotates among the Member States on an annual basis following the CBSS Presidency (from July 1 to June 30) and three to four meetings are held per year. The current mandate of the Task Force runs until 30 June 2011.

Despite the fact that human trafficking today is acknowledged as a severe crime that seriously violates the human rights of its many victims, a lot of work still needs to be done in the areas of prevention, protection, and prosecution. The establishment of partnerships and the enhancement of policy development are additionally and equally important to effectively curb

4 The Expert Group for Cooperation on Children at Risk, EGCC, is a group of senior officials from the ministries responsible for children's issues in the member countries of the CBSS and the European Commission. Member countries are: Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, Russia, and Sweden, see: <http://www.childcentre.info>.

this criminal trade. Since human trafficking cuts through all sectors, a multi-faceted approach is needed when planning and implementing anti-trafficking activities. The TF-THB therefore enables the Member States to jointly assess the regional trafficking situation, identify the existing gaps in regional counter-trafficking activities, and implement activities adapted to the observed common needs.

For 2008-2010 the TF-THB has agreed on the following Strategy:

- Training seminars on human trafficking for diplomatic and consular personnel in the CBSS region in co-operation with the International Organization for Migration (IOM).
- Running a joint project with the United Nations Office on Drugs and Crime (UNODC) to foster co-operation between NGOs and law enforcement agencies in preventing and combating human trafficking in, from, and to the Baltic Sea region.
- A regional information campaign against trafficking in human beings.
- Improved data collection and support for research on human trafficking in the region.
- A comparative regional legal analysis on human trafficking.

Why Training for Diplomatic and Consular Staff?

Inadequate and deficient identification of (potential) victims of trafficking still remains one of the biggest obstacles to fighting human trafficking effectively. Law enforcement agencies and government offices often lack the expertise, experienced personnel, or sensitivity to ensure that victims can be identified as such. As a result, potential victims and victims of human trafficking can neither expect to receive urgently needed support to prevent or put an end to an exploitative situation, nor can a successful prosecution with maximum enforcement of the law act to prevent and deter human trafficking in general. Therefore, broadening of the relevant actors' knowledge of human trafficking will directly assist in the identification and protection of its victims.

Since consular staff at embassies are often the first contact point between the victims and the authorities of their home country, the Task Force places a strong focus on training diplomatic and consular personnel. If provided with the right tools, the consular sections at the embassies can act as a first filter against human trafficking by screening visa applications. They of course also fulfil an important role when assisting with the return of identified victims.

The overall aim of the training programme is to increase the knowledge of the staff responsible for consular matters in the capitals and at the embassies of CBSS and relevant non-CBSS countries in the Baltic Sea region

about trafficking in human beings. The programme aims to deliver tools to these staff members that will help them to react properly if they become suspicious of or discover any cases of trafficking. The seminars strive in particular to provide participants with instruments to assist victims through collaborating with the police, social services, support organizations, immigration authorities, customs, labour inspectors, and others relevant actors.

The training seminars are carried out in all of the countries of the Baltic Sea region and share a common curriculum. Every CBSS Member or Observer State may send individuals from relevant embassies or government ministries in the region to participate. Furthermore, depending on the trafficking situation in each country, representatives from other relevant embassies, such as relevant countries of origin, transit, or destination, are also invited. The seminars usually last one full day or two half days. Each course is conducted by a team of consultants from the intergovernmental IOM, hired by the CBSS, together with national teams of experts on human trafficking – both governmental and nongovernmental. In addition, a representative from the EGCC provides the children's perspective at these trainings.

One outcome of the seminars will be the development of a joint regional methodological handbook to be distributed to the CBSS embassies in the region. The handbook will be designed as an easy-to-use manual for handling trafficking cases in the consular sections.

The training seminars provide the participants with:

1. basic information regarding flows of human traffic to, from, and within the CBSS region,
2. understanding of the nature of human trafficking as well as knowledge of international and national law,
3. specific information on victims of trafficking that aims to increase comprehension of their vulnerable situation and enhance the support provided to them,
4. knowledge on how to handle suspected and proven cases of human trafficking within the embassies and with co-operating authorities in line with international human rights standards,
5. an opportunity to exchange experiences and best practices with other professionals and to establish relevant contact points,
6. a clear understanding of the role of diplomatic and consular staff in identifying, assisting, and safely repatriating victims of human trafficking.

Joint Project between the TF-THB and UNODC on Fostering NGO-Law Enforcement Co-operation in Preventing and Combating Human Trafficking in, from, and to the Baltic Sea Region

Global problems such as trafficking in human beings can only be successfully combated by means of broad collaboration between various relevant actors, including members of civil society, state actors, and international organizations. Since different actors in the international arena generally focus on different aspects of human trafficking and therefore initiate different measures to fight it, co-operation and the establishment of a broad network is of great importance for combating it effectively.

Hence in 2009, the TF-THB and the UNODC have implemented a joint preparatory regional project on fostering co-operation between NGOs and law enforcement agencies in preventing and combating human trafficking in, from, and to the Baltic Sea region. The project focused on both formalized and non-formalized co-operation mechanisms and analysed existing memoranda of understanding (MoUs) in the Baltic Sea region.

This project aimed at strengthening co-operation between various governmental institutions and non-governmental actors within and among the CBSS Member States. Only with improved co-operation can victims be adequately assisted and protected. By collecting and analysing data through country assessment missions, the project developed assessment reports for each CBSS Member State on the existing co-operation mechanisms between state actors – especially law enforcement – and NGOs. The project concluded with a regional conference in Stockholm in December 2009. The conference brought together around 60 relevant actors from civil society, state actors (especially from criminal justice response institutions but also from social welfare institutions), and international organizations operating in the region, such as the OSCE Office for Democratic Institutions and Human Rights (ODIHR). The conclusions of the country assessments and recommendations on how to improve co-operation models were presented at this conference.

By exploring our current national referral mechanisms and how they can be improved, we hope ultimately to reduce the number of victims of trafficking in the Baltic Sea region. The possibility of further joint regional co-operation models in this field are currently being looked into as a potential second phase of this project.

Regional Information Campaign against Trafficking in Human Beings

During this period, a regional information campaign focused on prevention and awareness raising will be conducted throughout the region. Throughout the campaign, information materials will be developed and distributed. To initiate this programme and ensure its sustainability, the TF-THB is currently

developing a joint pilot campaign targeting human trafficking into Sweden from the Baltic Sea region. The information campaign will be associated with a hotline set up to combat gender-based violence in Sweden – *Kvinnofridslinjen* – which is managed by the Swedish National Centre for Knowledge on Men's Violence Against Women (*Nationellt Centrum för Kvinnofrid*). *Kvinnofridslinjen* is a national telephone support line for women who have been subjected to threats and violence. The hotline was not designed to assist victims of trafficking, but thanks to this project, it now has the knowledge and mandate to do so. The project is being implemented jointly with the Swedish National Co-ordinator against Prostitution and Trafficking, based in Stockholm County, and the National Centre for Knowledge on Men's Violence Against Women. The information campaign, which will be launched in early 2010, will be called "Safe Trip" and will target travel spots in Sweden, providing a hotline number that foreign women in Sweden who are victims or potential victims of trafficking can call for assistance. Stickers, leaflets, and contact cards in various relevant languages will be provided at selected points at airports, ferries, bus stops, and so on around Sweden to target trafficking within, from, and to the Baltic Sea region with a transit in Sweden or Sweden as a destination.

If this pilot is successful, the TF-THB will look into the possibility of launching a similar campaign, adapted to national needs, throughout the whole CBSS region during 2010.

Improved Data Collection and Support of Research into Human Trafficking in the Region

Since trafficking in human beings is a problem that is constantly changing, it is vital that we regularly update our understanding of this subject. One of the major challenges to enhancing the knowledge base of the stakeholders in this field is the current lack of comparable and comprehensive data on the various aspects of human trafficking. The Task Force has therefore made improving data collection one of its five strategic priorities. By improving the knowledge available to relevant actors, this activity helps them to better combat trafficking in human beings in the eleven CBSS Member States. Furthermore this activity strives to support research on all forms of human trafficking and encourage the establishment of stronger networks between researchers from different disciplines working with human trafficking in the CBSS region.

The aim of this activity is to look into common features of how data is collected and analysed qualitatively. There is currently a lack of reliable and up-to-date data and statistical analysis in this field due to failures in the collection of the data, the definition of trafficked persons, and a lack of coherence among the authorities that deal with victims of trafficking. The project would first assess where the missing links are, how data collection could be

improved, and determine where each data strand is held. Various research disciplines approach their analyses from contrasting perspectives and will need different kinds of access to different data. A cross-disciplinary analysis of collection procedures would also be helpful to inform legislation and make action more effective.

For this project, the CBSS TF-THB would like to use the recently developed “Guidelines for the collection of data on trafficking in human beings, including comparable indicators” as a starting point. These guidelines are the final publication of a project, initiated by the Federal Ministry of the Interior of Austria in co-operation with the IOM in Vienna and supported financially by the European Commission, Directorate-General Justice, Freedom and Security. A multidisciplinary Expert Team consisting of representatives from various countries, law enforcement agencies, research institutes, civil society, and international organizations was asked to contribute to the project and their suggestions have been incorporated into the guidelines.

The guidelines are a set of recommendations that lead states through the necessary steps for implementing a co-ordinated data collection and monitoring system at national level. As a first step towards potential closer harmonization in this field, the TF-THB has agreed to conduct a desk study to assess current data collection mechanisms and the indicators used in trafficking cases in the CBSS region. This assessment will be used as a base-line study for potential future activities in this field if a need for improvements is found.

Comparative Regional Legal Analysis on Human Trafficking

This activity, which will be implemented in 2010, involves hiring legal consultants to conduct an in-depth legal analysis, particularly to assess the existing legislation for the protection of victims of human trafficking, and exploring the needs and opportunities for legal harmonization in the field of human trafficking in the region. There are a number of legal areas that could be worth exploring in order to enhance the region’s response to human trafficking: victim/witness protection during court proceedings, the granting of reflection periods and temporary residence permits, levels of penalties for human trafficking and related crimes, the non-criminalization of victims’ acts on account that they were trafficked, and opportunities for victims to obtain compensation, to mention a few. The scope and modalities of research of this kind are currently being discussed by the TF-THB.

Interdependence is a word that cannot be stressed enough when talking about effective ways to combat human trafficking. Despite all the admirable efforts being made, there is a need for the key actors working in this field to join forces and avoid duplication of activities. A greater degree of self-reflexion on the efficiency of our own activities would allow us to take better stock of each other's experiences in seeking to achieve the common goal of combating trafficking in human beings. One of the main goals of the CBSS TF-THB is to increase co-operation and the co-ordination of activities with other actors in the field in the region, and the OSCE is of course one of them. Information on the activities of TF-THB is regularly shared with the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings. The delegates of the Task Force participate regularly in OSCE events in their capacity as national experts, and the OSCE has also been invited to events run by the TF-THB. At the OSCE Human Dimension Implementation Meeting in Warsaw in October 2008, the Senior Adviser of the TF-THB participated in a side event panel debate chaired by the OSCE Special Representative, Eva Biaudet, to discuss co-operation between countries of origin, transit, and destination in the fight against trafficking in human beings. The OSCE Special Representative also gave a much appreciated presentation at the CBSS TF-THB Training Seminar for Consular and Diplomatic Personnel in Helsinki in November 2009. The Senior Adviser previously wrote an article for an issue of the *OSCE Review – European Security*. The article discussed the work of the CBSS TF-THB in fighting human trafficking in the Baltic Sea region. The Task Force is furthermore participating in the OSCE Alliance Expert Co-ordination Team against Trafficking in Human Beings (OSCE AECT), where the TF-THB is represented by its Senior Adviser.

No matter how multidimensional and well-targeted the efforts to curtail human trafficking are, nor how hard we work to improve the assistance and protection provided to its victims, this brutal crime will never be stopped unless these measures are complemented by activities targeting the demand side. As in any other market, there would be no supply if there were no demand for services and cheap labour. The importance of curbing the demand that induces trafficking for various forms of exploitation has received increased attention over the last few years. However, little has been done so far, and here we need to pick up speed.

Enhanced information sharing, co-ordination of activities, support for improved research and awareness raising all represent just some of the important tasks that await the TF-THB in its efforts to advance counter-trafficking measures in this region.

From the OSCE Cluster of Competence to the Focus on the OSCE

“Professor Ghebali was Mr. OSCE. His unparalleled memory, understanding and analysis of the Organization’s evolution, mechanisms, institutions and decisions made him a walking encyclopaedia of knowledge that was tapped by officials and researchers alike”,¹ remembers Dr Walter Kemp. He was one of the few serious researchers who set out to study and observe the OSCE and record its evolution. His knowledge and his inclination for provocation and debate have been shared through his teaching and publications, but also through the creation of a forum designed to stimulate discussion among academics, diplomats, and policymakers on the OSCE within the international environment of the Graduate Institute and the city of Geneva.

As a distinguished expert on the OSCE, over the past fifteen years Victor-Yves Ghebali paid special attention to developing and expanding a broad professional international network of experts, diplomats, and policy makers dedicated to the objectives of the Organization, who could openly discuss problems encountered in the field of European security and co-operation and explore ways in which the OSCE could be strengthened to appropriately address multiple challenges. We owe to him the idea of holding regular meetings at which these issues could be discussed. This idea was institutionalized in the annual conferences held in early autumn at the Graduate Institute of International Studies (Institut de hautes études internationales, HEI; since 2008 Graduate Institute of International and Development Studies/Institut de hautes études internationales et du développement, HEID) in Geneva. This annual conference was originally entitled the *OSCE Cluster of Competence* within the Programme for the Study of International Organization(s) (PSIO) and continues today as the *Focus on the OSCE* within the Centre for International Governance (CIG). This made the Institute one of the few centres of excellence on the OSCE in Europe.

From 1997 to 2003, with the support of the Swiss Federal Department of Defence, Civil Protection and Sport (DDPS), the PSIO managed the OSCE Cluster of Competence, which met once a year to review the activities of the OSCE, and published occasional studies on the Organization. In 1999, the annual meeting was held in Brussels on the issue of regional stability in the Balkans. In 2001, with the support of the Swiss Federal Department of Foreign Affairs (FDFA), the PSIO launched the *OSCE Networking* website, dedicated to OSCE-related documentation, in collaboration with the Centre

1 Appreciation, Victor-Yves Ghebali, “Mr. OSCE” 1942-2009, in: *OSCE Magazine*, March-April 2009, pp. 24-25.

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

From 2004, the PSIO developed a *Focus on the OSCE* programme with the support of the Swiss Federal Administration as a flexible instrument for reflection on and analysis of the OSCE. In September 2004, the programme held a conference in Geneva on the topic of “The Politico-Military Dimension of the OSCE: Arms Control and Conflict Management Issues”, in close collaboration with the DDPS. In the context of the Slovenian Chairmanship of the OSCE, in September 2005 the conference took place outside Geneva for the second time. The PSIO co-organized with the Faculty of Social Sciences at the University of Ljubljana a conference in Slovenia with the title “The Reform of the OSCE 15 Years After the Charter of Paris for a New Europe: Problems, Challenges and Risks”.

Professor Ghebali’s longstanding research interest had found a platform, and his work had a new home at the heart of the project. The forum covered all the dimensions of the OSCE and involved government officials, experts in international organizations, and members of the Graduate Institute’s faculty in the organization of an annual conference at the Institute. Professor Ghebali contributed to bring to Geneva high-ranking diplomats and experts from Vienna whom he liked to provoke intentionally in his opening session.

Finally, in 2008, the PSIO underwent new changes. The Centre for International Governance (CIG) replaced the PSIO. It remains based at the HEID. The CIG has been created by the fusion of the PSIO and the Programme of Diplomatic Studies, as well as the Centre for Applied Studies in International Negotiations. The CIG’s *Focus on the OSCE* project continues in this new context as a tool for governance facilitation. The Centre acts as a secretariat, convening meetings and issuing policy briefs with the aim of preparing, facilitating, and improving multi-stakeholder negotiation processes. It also functions as an interactive exchange platform, seeking to enhance best practices and innovative ideas for new solutions to governance issues through meetings, workshops, and conferences.

In 2009, the conference was entitled “The OSCE and a New Security Governance”. It brought together 35 participants, including, for the first time, the OSCE Secretary General, as well as the OSCE High Commissioner on National Minorities, the OSCE Conflict Prevention Centre Director, the Head of the Greek OSCE Chairmanship Task Force, and other high ranking diplomats and experts.

The PSIO has published 16 *Occasional Papers* to disseminate further the results of the annual conference and four books on the OSCE. Since 1997, from the Cluster of Competence to the Centre for International Governance, the project has continuously managed to gather a significant number of ambassadors in Vienna, experts, and academics in regular annual meetings focusing on key topics related to the tremendous changes that have occurred within the OSCE area. The *Focus on the OSCE* has contributed to framing

debates, exchanges, and new thinking on disputed issues, and to making Geneva a fixed date on the OSCE calendar.

The project is now missing its initiator, as well as his critical and passionate insights. The OSCE is missing one of its closest followers. As Ambassador Marc Perrin de Brichambaut, Secretary General of the OSCE, acknowledged: "The OSCE has lost a great friend, one whose eyes were always wide open and always among the most perceptive. We shall all be the poorer for no longer being able to rely on his insights."²

Victor-Yves Ghebali and the OSCE

It was a fortunate coincidence that Victor-Yves Ghebali started to teach at the HEI at the time when negotiations among experts within the Conference on Security and Co-operation in Europe (CSCE, today the OSCE) were launched not far from the premises of the Geneva-based Institute (1973-1975). For the first time, all the states of Europe, together with the USA and Canada, sat at the same table to elaborate a common document on security, economic, and human rights issues that became the Helsinki Final Act, signed in 1975 by the Heads of State or Government of all participating States in the Finnish capital.

Thus, Victor-Yves Ghebali, a specialist in security policy and international co-operation, was from the outset close to this new forum, in which East-West relations, which had, on the whole, previously been managed bilaterally by Washington and Moscow, became, in Ghebali's words, "Europeanized" in a multilateral pan-European dialogue and, by integrating the European neutral and non-aligned states (N+N) on an equal footing with NATO and Warsaw Pact members, "democratized". The N+N group did indeed play an active role in the negotiations, often assisting the two alliances by introducing compromise proposals and facilitating solutions.

While following these negotiations closely and establishing personal contacts with various delegations, particularly the Swiss, Victor-Yves Ghebali realized early on that the CSCE process would change the whole of Europe. Even though the decade between 1975 and 1985 saw periods of tension and détente, these changes came earlier than many politicians and diplomats had imagined in 1975. We can also confirm retrospectively that the CSCE played an important role in these positive developments, particularly since the participating States decided to continue the dialogue after Helsinki on the basis of follow-up meetings, expert seminars, etc., and, in 1983, to launch the CSCE Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE), which took place in Stockholm from 1984-1986. The CDE was superseded by the Vienna Negotiations on

2 Ibid.

Confidence- and Security-Building Measures (CSBMs). Although mounting East-West tensions often made progress appear almost impossible, particularly in the early 1980s, the negotiations finally resulted in the adoption of an ambitious set of CSBMs, known as the Vienna Document 1990 and amended in 1992. In parallel to the negotiations on CSBM, a further set of talks were held on Conventional Armed Forces in Europe (CFE), which resulted in the adoption of the CFE Treaty in 1990. Although the latter was elaborated and signed by only the NATO and Warsaw Treaty member states, it was negotiated in the CSCE "framework".

The Helsinki Final Act also gave rise to the emergence and the development of various private initiatives in participating States, especially in the field of human rights. The Vienna Follow-up Meeting concluded in January 1989 finally contained clear signals that these constant endeavours were to be rewarded and a new chapter of European history was about to start.

As one of the first scholars of the CSCE, Victor-Yves Ghebali developed a special interest in the Helsinki process. He followed the ups and downs of the CSCE as a researcher and as a teacher with a great number of faithful students. By staying in close contact with the relevant players in the CSCE and the team responsible in Bern, he remained as close as possible to the political reality. His accurate and thorough analysis of the CSCE is set down in his first comprehensive book on the topic, "La Diplomatie de la Détente: la CSCE, 1973-1989", which was published in 1989 in Brussels and remains one of the most important scholarly publications on this period of transition in European history, documenting it in great detail and with outstanding competence. It was typical of Ghebali, who felt that the Vienna Meeting concluded the first part of East-West rapprochement and that a new era was dawning in European politics, to wait until the adoption of the 1989 Vienna Document before publishing this work.

While he joined those who paid great tribute to the CSCE for its important contribution to bringing about dramatic changes that resulted in the tearing down of real and ideological walls in Europe, he was at that crucial moment no less persuasive in asserting that the Conference could play an equally significant role in shaping the next chapter of European history. Not words, but deeds were now expected.

The CSCE was a political forum for discussion and negotiation without any legal basis or mandate for operational action. Discussions on the future role of the CSCE in managing change in Europe took place within the Conference itself as well as within the participating States. Similar debates were also initiated within and with regard to the future role of other organizations and institutions, such as NATO, the Council of Europe, and the European Union. The principal decision was finally taken to lay down a vision for a new order of security and co-operation in the whole of Europe and North America by drafting the CSCE Charter for a New Europe, which was ultim-

ately signed by the Heads of State or Government of all participating States in November 1990 at the CSCE Summit Meeting in Paris.

The Charter of Paris was conceived as a follow-up document to the Helsinki Final Act and to guide a uniting Europe in the years to come. The Charter itself reflected enthusiasm for a new vision of Europe that recognized common values such as democracy, rule of law, and human rights for all states and citizens on the continent. However, it largely failed to achieve its objective of creating solid institutions and instruments that would enable the CSCE to live up to the challenges identified in the Charter. Only three small permanent CSCE institutions were established in three different capitals: the Conflict Prevention Centre in Vienna, the Office for Free Elections in Warsaw which, from 1992, evolved to become the Office for Democratic Institutions and Human Rights (ODIHR), and a tiny Secretariat in Prague.

In addition, a Committee of Senior Officials was supposed to meet in Prague on a regular basis and in crisis situations. There were various reasons for this lack of solid institutionalization of the Conference. In the euphoria of those days for a common, prosperous, and peaceful future for all, there was no chance of reaching consensus on a view that warned of the danger that the end of the Cold War might reactivate local and regional conflicts, to which the CSCE should be prepared to react effectively. Furthermore, some participating States considered that NATO and the European Union were the European institutions best suited to give Europe a greater sense of security in the future, and sought to expand the competencies of the Council of Europe in the human dimension, ignoring the potential strength, flexibility, and creativity of the single pan-European forum of those times. Today, the Charter appears as a document reflecting an optimistic or even idealistic vision of a future Europe that was predominant at a crucial moment of decisive political change in 1989 and 1990. However, the “softness” of the institutions created, in particular, did little to grant the CSCE either the authority or the instruments necessary to develop as a relevant organization capable of taking appropriate action whenever needed.

Like other scholars, Victor-Yves Ghebali spoke quite critically of an “identity crisis” of the CSCE after the 1990 Summit Meeting in Paris. For him, a chance was lost to transform the CSCE into a “normal” international organization based on an international treaty, and he regretted the lack of courage of the European states to do so at such a key turning point in European history. But he did not give up his interest in the CSCE matters and pursued the institutional issue in the years to come. The CSCE was transformed into an organization – the OSCE – five years later and has slowly enlarged its institutional framework according to its needs. In its traditional pragmatic way, the OSCE has strengthened existing institutions and created new ones to enable it to fulfil its operational tasks, but has so far never been put on a solid basis of international law.

In Ghebali's judgment, the 1992 Summit Meeting in Helsinki brought the CSCE closer to its proper operational role by adopting some additional instruments that would enable it to undertake specific activities in Europe's emerging conflict zones. He welcomed the guidelines for long term field missions, the institution of a High Commissioner on National Minorities, and the drafting of terms of reference for CSCE peacekeeping missions. In addition, he appreciated the decision to grant the CSCE the status of a "regional arrangement" in the sense of Chapter VIII of the United Nations Charter.

The institutionalization of the CSCE/OSCE continued in the following years, but in a rather unsystematic manner. Thus, the question of the Organization's legal personality has not been solved, but still comes up in today's reform discussions. Ghebali would have preferred to put some order into the growing network of ad hoc solutions, and he believed that the OSCE would benefit as part of network of European institutions and international organizations if put on an equal legal footing with those institutions.

However, he also acknowledged that pragmatism and flexibility have served the OSCE well, especially when new situations have needed new responses. In the 1990s, the Organization demonstrated its innovativeness by dispatching long-term missions to crisis and conflict zones. In South-eastern Europe, under the Dayton Agreement, the Swiss Chairmanship tasked the OSCE in 1996 to deploy a mission in Bosnia and Herzegovina – the largest it had ever deployed. Soon thereafter, in 1999, the OSCE deployed an even larger mission in Kosovo, which became later an important part of the UN Mission in Kosovo, UNMIK.

Through his various publications and, in particular, his second major book "L'OSCE dans l'Europe post-communiste, 1990-1996", Victor-Yves Ghebali became appreciated as a distinguished expert on OSCE matters. During the 1996 Swiss Chairmanship, Federal Councillor Flavio Cotti appointed him an adviser. From then on, he also became an ever more frequent visitor to the OSCE, called upon to lend his expertise in security issues or human dimension problems in the OSCE area. His thorough analysis and considered, future-oriented judgments were highly esteemed. In addition, he was a regular speaker at meetings within the OSCE with representatives of non-participating Mediterranean States and at seminars on topics relating to Mediterranean security and co-operation. He had even at times also reflected on the idea of a Conference in the Middle East on the example of the CSCE. Ghebali was not only appreciated as an outstanding scholar and excellent speaker, he was also highly esteemed for his personal qualities. He became a good friend of many OSCE diplomats who appreciated his openness and his kindness. He was a real member of the OSCE family.

Until the end, Victor-Yves Ghebali believed in the OSCE as a relevant player in European security and co-operation. But this was always a critical and alert belief. One of the political problems he observed in later years was the growing adherence of new members to NATO and the EU and, conse-

quently, a decreasing interest in the OSCE and its capacities, and hence also in its reform. He repeatedly spoke out against competition among European organizations, and called for the establishment of better co-ordination and use of synergy, but he also demonstrated on various occasions that the OSCE could improve its position in international “competition” by reforming its structures and financing system.

Victor-Yves Ghebali was not only the observer and critic of everyday OSCE business. He saw the Organization as a factor in European politics that will always have its role to play in Europe and in creating new ways and means to serve the international community.

Unfinished Business

Despite the dramatic changes to the European landscape, and particularly the growing number of the EU and NATO member states within the OSCE area, Victor-Yves Ghebali was convinced that there was still much room for specific roles to be performed by the OSCE as a home for pan-European security dialogue, standard-setting, and monitoring of the commitments, in the provision of technical assistance to the participating States, and in the conflict management.

For the OSCE to live up to its promises, however, he emphasized the urgency for deep reform of the Organization that would improve its efficiency and relevance in the common interest of all its participating States. He also warned that such a reform should not undermine the flexibility and creativity of the OSCE by introducing excessive procedures that would act as a strait-jacket on the Organization. One thing it should certainly do is provide the OSCE with legal capacity, as this would make its operations easier in many regards.

Based on those and other conclusions and criteria, Victor-Yves Ghebali identified an agenda for changes to be made in and around the OSCE. Much of the work to implement this agenda still lies ahead of us, including the following:

- Increase the internal and external visibility of the Organization: Draft a clear mission stating document – a basic OSCE Charter.
- Consolidate the OSCE’s status vis-à-vis partner organizations; to enable this, grant the OSCE an international legal capacity and revisit the debate on the Organization’s role in peacekeeping.
- Revise the OSCE’s approach to frozen conflicts; start by clearly stating that the deployment of foreign troops on the territory of any participating State against its sovereign will constitutes a clear breach of OSCE commitments.

- Provide sufficient human and financial resources to the economic and environmental dimension of the OSCE in order to effectively strengthen it; enlarge the competencies of the OSCE Economic Forum and expand the autonomy enjoyed by the OSCE institutions that deal with the economic dimension.
- Develop an OSCE capacity for peacekeeping operations to strengthen the politico-military dimension, and let all participating States join the CFE Treaty.
- Endow each of the three OSCE dimensions with a central body, which, under the authority of the Permanent Council, would provide guidance and oversight.
- Defuse the perception of double standards allegedly practiced by the OSCE via the updating of election standards, and a more systematic application of equitable geographic representation in the staffing of OSCE institutions and field operations; adopt consolidated Rules of Procedure and revise the scale of budgetary contributions.
- By no means soften existing OSCE commitments or downgrade monitoring standards; do not straitjacket OSCE institutions and field missions.

At the same time, recent developments were increasing Victor-Yves Ghebali's concerns regarding the extent to which this agenda could be pursued. The suspension of the 1990 CFE Treaty by the Russian Federation later in 2007, the war in Georgia in 2008, and the increasing challenges to election observation by ODIHR in a number of participating States, in particular, contributed to his warning that the very foundation of the Helsinki process laid down at its outset – co-operation on relevant security issues and the promotion of the human dimension – was being eroded, thus seriously challenging not only the relevance of the OSCE itself but, also, the prospects for further increasing convergence in the whole of the OSCE area.

In the last years of his life, Victor-Yves Ghebali was working on his third fundamental book addressing the contemporary challenges to security and co-operation in Europe, and to the OSCE. The responses he envisioned and set down in detail can provide all of us with nourishing food for thought, precisely at a moment when European security dialogue may – or may not – give a new lease of life to the OSCE.

Annexes

Forms and Forums of Co-operation in the OSCE Area

G8 (Group of Eight)

Organization for Economic Co-operation and Development (OECD)

Council of Europe (CoE)

North Atlantic Treaty Organization (NATO)

Euro-Atlantic Partnership Council (EAPC)

Partnership for Peace (PfP)

NATO-Russia Council

NATO-Ukraine Charter/NATO-Ukraine Commission

European Union (EU)

EU Candidate Countries

EU Association Agreements

Stabilization and Association Agreements (SAA)

Western European Union (WEU)

Associate Members of the WEU¹

Associate Partners of the WEU

WEU Observers²

Eurocorps

Commonwealth of Independent States (CIS)

Baltic Assembly/Baltic Council of Ministers

Barents Euro-Arctic Council

Observers to the Barents Euro-Arctic Council

Nordic Council

Council of the Baltic Sea States (CBSS)

Stability Pact for South Eastern Europe

Observers to the Stability Pact for South Eastern Europe

Central European Free Trade Agreement/Area (CEFTA)

Central European Initiative (CEI)

1 The WEU does not differentiate between associate and full members.

2 Observer status confers privileges restricted to information exchange and attendance at meetings in individual cases and on invitation.

Southeast European Cooperative Initiative (SECI)
South-East European Cooperation Process (SEECP)
Black Sea Economic Cooperation (BSEC)

North American Free Trade Area (NAFTA)

Collective Security Treaty Organization (CSTO)

Shanghai Cooperation Organisation (SCO)

Sources:

OECD: www.oecd.org
Council of Europe: www.coe.int
NATO: www.nato.int
EU: europa.eu
WEU: www.weu.int
CIS: www.cis.minsk.by
Baltic Assembly/Baltic Council of Ministers: www.baltasam.org
Barents Euro-Arctic Council: www.beac.st
Nordic Council: www.norden.org
CBSS: www.cbss.st
Stability Pact for South Eastern Europe: www.stabilitypact.org
CEFTA: www.stabilitypact.org/WT2/TradeCEFTA2006.asp
CEI: www.ceinet.org
SECI: www.secicenter.org
BSEC: www.bsec-organization.org
NAFTA: www.nafta-sec-alena.org
CSTO: www.dkb.gov.ru
SCO: www.sectesco.org

The 56 OSCE Participating States – Facts and Figures¹

1. Albania

Date of accession: June 1991

Scale of contributions: 0.125 per cent (OSCE ranking: 40)²

Area: 28,748 km² (OSCE ranking: 45)³

Population: 3,639,453 (OSCE ranking: 40)⁴

*GDP per capita in international dollars at PPP rates*⁵: 6,000 (OSCE ranking: 50)⁶

GDP growth: 6.1 per cent (OSCE ranking: 11)⁷

Armed forces (active): 14,295 (OSCE ranking: 36)⁸

Memberships and forms of co-operation: CoE (1995), NATO (2009), EAPC, SAA (2006), Stability Pact for South Eastern Europe, CEFTA, CEI (1995), SECI, SEECP, BSEC.

2. Andorra

Date of accession: April 1996

Scale of contributions: 0.125 per cent (40)

Area: 468 km² (51)

Population: 83,888 (52)

GDP per capita in international dollars at PPP rates: 42,500 (6)⁹

GDP growth: 2 per cent (32)¹⁰

Armed forces (active): none

Memberships and forms of co-operation: CoE (1994).

3. Armenia

Date of accession: January 1992

Scale of contributions: 0.05 per cent (49)

Area: 29,743 km² (44)

Population: 2,967,004 (42)

GDP per capita in international dollars at PPP rates: 6,400 (48)

GDP growth: 7.6 per cent (6)

1 Compiled by Jochen Rasch.

2 Of 56 states.

3 Of 56 states.

4 Of 56 states.

5 The international dollar is the hypothetical unit of currency used to compare different national currencies in terms of purchasing power parity. PPP is defined as the number of units of a country's currency required to buy the same amounts of goods and services in the domestic market as one US dollar would buy in the United States. See The World Bank, World Development Report 2002, Washington, D.C., 2002.

6 Of 55 states.

7 Of 55 states.

8 Of 55 states.

9 2007.

10 2007 (estimated).

Armed forces (active): 42,080 (19)
Memberships and forms of co-operation: CoE (2001), EAPC, PfP (1994), CIS (1991), BSEC, CSTO.

4. Austria

Date of accession: June 1973
Scale of contributions: 2.51 per cent (13)
Area: 83,871 km² (28)
Population: 8,210,281 (24)
GDP per capita in international dollars at PPP rates: 39,200 (12)
GDP growth: 1.6 per cent (36)
Armed forces (active): 34,900 (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 km² (27)
Population: 8,238,672 (23)
GDP per capita in international dollars at PPP rates: 9,000 (44)
GDP growth: 11.6 per cent (1)
Armed forces (active): 66,940 (15)
Memberships and forms of co-operation: CoE (2001), EAPC, PfP (1994), CIS (1991), BSEC.

6. Belarus

Date of accession: January 1992
Scale of contributions: 0.28 per cent (30)
Area: 207,600 km² (19)
Population: 9,648,533 (21)
GDP per capita in international dollars at PPP rates: 11,800 (40)
GDP growth: 9.2 per cent (3)
Armed forces (active): 72,940 (13)
Memberships and forms of co-operation: EAPC, PfP (1995), CIS (1991), CEI (1995), CSTO.

7. Belgium

Date of accession: June 1973
Scale of contributions: 3.24 per cent (10)
Area: 30,528 km² (43)
Population: 10,414,336 (18)
GDP per capita in international dollars at PPP rates: 37,500 (14)

GDP growth: 1.3 per cent (39)¹¹

Armed forces (active): 38,844 (22)

Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Eurocorps (1993), Stability Pact for South Eastern Europe.

8. Bosnia and Herzegovina

Date of accession: April 1992

Scale of contributions: 0.125 per cent (40)

Area: 51,197 km² (36)

Population: 4,613,414 (36)

GDP per capita in international dollars at PPP rates: 6,500 (47)

GDP growth: 5.6 per cent (15)

Armed forces (active): 8,543 (43)

Memberships and forms of co-operation: CoE (2002), EAPC, PfP (2006), SAA (2008), Stability Pact for South Eastern Europe, CEFTA, CEI (1992), SECI, SEECP.

9. Bulgaria

Date of accession: June 1973

Scale of contributions: 0.55 per cent (26)

Area: 110,879 km² (23)

Population: 7,204,687 (28)

GDP per capita in international dollars at PPP rates: 12,900 (37)

GDP growth: 6 per cent (12)¹²

Armed forces (active): 40,747 (20)

Memberships and forms of co-operation: CoE (1992), NATO (2004), EAPC, EU (2007), Associate Partner of the WEU (1994), Stability Pact for South Eastern Europe, CEI (1995), SECI, SEECP, BSEC.

10. Canada

Date of accession: June 1973

Scale of contributions: 5.53 per cent (7)

Area: 9,984,670 km² (2)

Population: 33,487,208 (11)

GDP per capita in international dollars at PPP rates: 39,300 (11)

GDP growth: 0.6 per cent (47)

Armed forces (active): 64,371 (16)

Memberships and forms of co-operation: G8 (1976), OECD (1961), NATO (1949), EAPC, Observer to the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe, NAFTA.

11 2008.

12 2008.

11. Croatia

Date of accession: March 1992

Scale of contributions: 0.19 per cent (33)

Area: 56,594 km² (35)

Population: 4,489,409 (37)

GDP per capita in international dollars at PPP rates: 16,100 (35)

GDP growth: 4.8 per cent (17)

Armed forces (active): 18,600 (33)

Memberships and forms of co-operation: CoE (1996), NATO (2009), EAPC, EU Candidate Country, Stability Pact for South Eastern Europe, CEFTA, CEI (1992), SECI, SEECP.

12. Cyprus

Date of accession: June 1973

Scale of contributions: 0.19 per cent (33)

Area: 9,251 km² (49)¹³

Population: 796,740 (47)¹⁴

GDP per capita in international dollars at PPP rates: 28,600 (25)

GDP growth: 3.6 per cent (23)

Armed forces (active): 10,000 (40)¹⁵

Memberships and forms of co-operation: CoE (1961), EU (2004), Stability Pact for South Eastern Europe.

13. Czech Republic

Date of accession: January 1993

Scale of contributions: 0.57 per cent (25)

Area: 78,867 km² (29)

Population: 10,211,904 (19)

GDP per capita in international dollars at PPP rates: 26,100 (26)

GDP growth: 3.9 per cent (22)

Armed forces (active): 24,083 (28)

Memberships and forms of co-operation: OECD (1995), CoE (1993), NATO (1999), EAPC, EU (2004), Associate Member of the WEU (1999), Stability Pact for South Eastern Europe, CEI (1990/1993).

14. Denmark

Date of accession: June 1973

Scale of contributions: 2.1 per cent (14)

Area: 43,094 km² (39)

Population: 5,500,510 (29)

GDP per capita in international dollars at PPP rates: 37,400 (15)

13 Greek sector: 5,896 km², Turkish sector: 3,355 km².

14 Total of Greek and Turkish sectors.

15 Turkish sector: 5,000.

GDP growth: -0.6 per cent (49)
Armed forces (active): 29,550 (24)
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: 45,228 km² (38)
Population: 1,299,371 (46)
GDP per capita in international dollars at PPP rates: 21,200 (30)
GDP growth: -3 per cent (53)
Armed forces (active): 5,300 (46)
Memberships and forms of co-operation: CoE (1993), NATO (2004), EAPC, EU (2004), Associate Partner of the WEU (1994), Baltic Assembly/Baltic Council of Ministers, CBSS (1992), Stability Pact for South Eastern Europe.

16. Finland

Date of accession: June 1973
Scale of contributions: 1.85 per cent (16)
Area: 338,145 km² (13)
Population: 5,250,275 (32)
GDP per capita in international dollars at PPP rates: 37,200 (16)
GDP growth: 1.5 per cent (37)
Armed forces (active): 29,300 (25)
Memberships and forms of co-operation: OECD (1969), CoE (1989), EAPC, PfP (1994), EU (1995), WEU Observer (1995), Barents Euro-Arctic Council, Nordic Council (1955), CBSS (1992), Stability Pact for South Eastern Europe.

17. France

Date of accession: June 1973
Scale of contributions: 9.35 per cent (2)
Area: 643,427 km² (6)
Population: 64,057,792 (5)
GDP per capita in international dollars at PPP rates: 32,700 (20)
GDP growth: 0.7 per cent (44)
Armed forces (active): 352,771 (4)
Memberships and forms of co-operation: G8 (1975), OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Eurocorps (1992), Observer to the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe.

18. Georgia

Date of accession: March 1992

Scale of contributions: 0.05 per cent (49)

Area: 69,700 km² (32)

Population: 4,615,807 (35)

GDP per capita in international dollars at PPP rates: 4,700 (51)

GDP growth: 2.4 per cent (30)

Armed forces (active): 21,150 (31)

Memberships and forms of co-operation: CoE (1999), EAPC, PfP (1994), BSEC.

19. Germany

Date of accession: June 1973

Scale of contributions: 9.35 per cent (2)

Area: 357,022 km² (12)

Population: 82,329,758 (3)

GDP per capita in international dollars at PPP rates: 34,800 (18)

GDP growth: 1.3 per cent (39)

Armed forces (active): 244,324 (6)

Memberships and forms of co-operation: G8 (1975), OECD (1961), CoE (1950), NATO (1955), EAPC, EU (1958), WEU (1954), Eurocorps (1992), Observer to the Barents Euro-Arctic Council, CBSS (1992), Stability Pact for South Eastern Europe.

20. Greece

Date of accession: June 1973

Scale of contributions: 0.98 per cent (19)

Area: 131,957 km² (22)

Population: 10,737,428 (16)

GDP per capita in international dollars at PPP rates: 32,000 (21)

GDP growth: 2.8 per cent (28)

Armed forces (active): 156,600 (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 km² (56)

Population: 826 (56)

GDP per capita in international dollars at PPP rates: n/a

GDP growth: n/a
Armed forces (active): 100 (51)¹⁶
Memberships and forms of co-operation: none.

22. Hungary

Date of accession: June 1973
Scale of contributions: 0.6 per cent (23)
Area: 93,028 km² (25)
Population: 9,905,596 (20)
GDP per capita in international dollars at PPP rates: 19,800 (31)
GDP growth: -1.5 per cent (51)
Armed forces (active): 25,207 (26)
Memberships and forms of co-operation: OECD (1996), CoE (1990), NATO (1999), EAPC, EU (2004), Associate Member of the WEU (1999), Stability Pact for South Eastern Europe, CEI (1989), SECI.

23. Iceland

Date of accession: June 1973
Scale of contributions: 0.19 per cent (33)
Area: 103,000 km² (24)
Population: 306,694 (51)
GDP per capita in international dollars at PPP rates: 39,900 (10)
GDP growth: -3.5 per cent (54)
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: 70,273 km² (31)
Population: 4,203,200 (39)
GDP per capita in international dollars at PPP rates: 46,200 (5)
GDP growth: -1.7 per cent (52)
Armed forces (active): 10,460 (39)
Memberships and forms of co-operation: OECD (1961), CoE (1949), EAPC, PfP (1999), EU (1973), WEU Observer (1992), Stability Pact for South Eastern Europe.

16 Authorized strength 100-110 members of the Swiss Guard, see: http://www.vatican.va/roman_curia/swiss_guard/500_swiss/documents/rc_gsp_20060121_informazioni_it.html.

25. Italy

Date of accession: June 1973

Scale of contributions: 9.35 per cent (2)

Area: 301,340 km² (16)

Population: 58,126,212 (7)

GDP per capita in international dollars at PPP rates: 31,000 (22)

GDP growth: -0.7 per cent (50)

Armed forces (active): 292,983 (5)

Memberships and forms of co-operation: G8 (1975), OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Observer to the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe, CEI (1989).

26. Kazakhstan

Date of accession: January 1992

Scale of contributions: 0.36 per cent (28)

Area: 2,724,900 km² (4)

Population: 15,399,437 (15)

GDP per capita in international dollars at PPP rates: 11,500 (41)

GDP growth: 3 per cent (27)

Armed forces (active): 49,000 (17)

Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991), CSTO, SCO.

27. Kyrgyzstan

Date of accession: January 1992

Scale of contributions: 0.05 per cent (49)

Area: 199,951 km² (20)

Population: 5,431,747 (31)

GDP per capita in international dollars at PPP rates: 2,100 (54)

GDP growth: 6 per cent (12)

Armed forces (active): 10,900 (37)

Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991), CSTO, SCO.

28. Latvia

Date of accession: September 1991

Scale of contributions: 0.19 per cent (33)

Area: 64,589 km² (34)

Population: 2,231,503 (43)

GDP per capita in international dollars at PPP rates: 17,800 (32)

GDP growth: -5 per cent (55)

Armed forces (active): 5,187 (47)

Memberships and forms of co-operation: CoE (1995), NATO (2004), EAPC,

EU (2004), Associate Partner of the WEU (1994), Baltic Assembly/Baltic Council of Ministers, CBSS (1992), Stability Pact for South Eastern Europe.

29. Liechtenstein

Date of accession: June 1973

Scale of contributions: 0.125 per cent (40)

Area: 160 km² (53)

Population: 34,761 (53)

GDP per capita in international dollars at PPP rates: 118,000 (1)¹⁷

GDP growth: 3.1 per cent (26)¹⁸

Armed forces (active): none¹⁹

Memberships and forms of co-operation: CoE (1978), EU Association Agreement (1995), since 1923 Community of Law, Economy, and Currency with Switzerland.

30. Lithuania

Date of accession: September 1991

Scale of contributions: 0.19 per cent (33)

Area: 65,300 km² (33)

Population: 3,555,179 (41)

GDP per capita in international dollars at PPP rates: 17,700 (33)

GDP growth: 3.2 per cent (25)

Armed forces (active): 8,850 (41)

Memberships and forms of co-operation: CoE (1993), NATO (2004), EAPC, EU (2004), Associate Partner of the WEU (1994), Baltic Assembly/Baltic Council of Ministers, CBSS (1992), Stability Pact for South Eastern Europe.

31. Luxembourg

Date of accession: June 1973

Scale of contributions: 0.47 per cent (27)

Area: 2,586 km² (50)

Population: 491,775 (49)

GDP per capita in international dollars at PPP rates: 81,100 (2)

GDP growth: 3.6 per cent (23)

Armed forces (active): 900 (50)

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.

¹⁷ 2007 (estimated).

¹⁸ 2007 (estimated).

¹⁹ In 1868, the armed forces were dissolved, see: <http://www.liechtenstein.li/pdf-fl-multimedia-information-liechtenstein-bildschirm.pdf>.

32. The Former Yugoslav Republic of Macedonia

Date of accession: October 1995

Scale of contributions: 0.125 per cent (40)

Area: 25,713 km² (46)

Population: 2,066,718 (44)

GDP per capita in international dollars at PPP rates: 9,000 (44)

GDP growth: 4.6 per cent (19)

Armed forces (active): 10,890 (38)

Memberships and forms of co-operation: CoE (1995), EAPC, PfP (1995), EU Candidate Country, Stability Pact for South Eastern Europe, CEFTA, CEI (1993), SECI, SEECP.

33. Malta

Date of accession: June 1973

Scale of contributions: 0.125 per cent (40)

Area: 316 km² (52)

Population: 405,165 (50)

GDP per capita in international dollars at PPP rates: 24,200 (27)

GDP growth: 2.5 per cent (29)

Armed forces (active): 1,954 (49)

Memberships and forms of co-operation: CoE (1965), EAPC, PfP (1995/2008²⁰), EU (2004), Stability Pact for South Eastern Europe.

34. Moldova

Date of accession: January 1992

Scale of contributions: 0.05 per cent (49)

Area: 33,851 km² (42)

Population: 4,320,748 (38)

GDP per capita in international dollars at PPP rates: 2,500 (53)

GDP growth: 7.3 per cent (8)²¹

Armed forces (active): 6,000 (45)

Memberships and forms of co-operation: CoE (1995), EAPC, PfP (1994), CIS (1991), Stability Pact for South Eastern Europe, CEFTA, CEI (1996), SECI, SEECP, BSEC.

35. Monaco

Date of accession: June 1973

Scale of contributions: 0.125 per cent (40)

Area: 2.00 km² (55)

Population: 32,965 (54)

20 Malta joined the PfP in April 1995, but suspended its participation in October 1996. Malta re-engaged in the Partnership for Peace Programme in 2008, see: <http://www.nato.int/docu/update/2008/04-april/e0403e.html>.

21 2008.

*GDP per capita in international dollars at PPP rates: 30,000 (23)*²²
GDP growth: 0.9 per cent (43)
Armed forces (active): none
Memberships and forms of co-operation: CoE (2004).

36. Montenegro

Date of accession: June 2006
Scale of contributions: 0.05 per cent (49)
Area: 13,812 km² (48)
Population: 672,180 (48)
GDP per capita in international dollars at PPP rates: 9,700 (43)
GDP growth: 6.5 per cent (9)
Armed forces (active): 4,500 (48)
Memberships and forms of co-operation: CoE (2007), EAPC, PfP (2006), SAA (2007), Stability Pact for South Eastern Europe, CEFTA, CEI (2006), SECI, SEECP.

37. Netherlands

Date of accession: June 1973
Scale of contributions: 4.36 per cent (9)
Area: 41,543 km² (40)
Population: 16,715,999 (14)
GDP per capita in international dollars at PPP rates: 40,300 (9)
GDP growth: 1.8 per cent (34)
Armed forces (active): 40,537 (21)
Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Observer to the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe.

38. Norway

Date of accession: June 1973
Scale of contributions: 2.05 per cent (15)
Area: 323,802 km² (14)
Population: 4,660,539 (34)
GDP per capita in international dollars at PPP rates: 55,200 (3)
GDP growth: 1.8 per cent (34)
Armed forces (active): 19,100 (32)
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.

22 2006 (estimated).

39. Poland

Date of accession: June 1973

Scale of contributions: 1.35 per cent (17)

Area: 312,685 km² (15)

Population: 38,482,919 (10)

GDP per capita in international dollars at PPP rates: 17,300 (34)

GDP growth: 4.8 per cent (17)

Armed forces (active): 121,808 (11)

Memberships and forms of co-operation: OECD (1996), CoE (1991), NATO (1999), EAPC, EU (2004), Associate Member of the WEU (1999), Observer to the Barents Euro-Arctic Council, CBSS (1992), Stability Pact for South Eastern Europe, CEI (1991).

40. Portugal

Date of accession: June 1973

Scale of contributions: 0.98 per cent (19)

Area: 92,090 km² (26)

Population: 10,707,924 (17)

GDP per capita in international dollars at PPP rates: 22,000 (28)

GDP growth: 0.2 per cent (48)

Armed forces (active): 42,910 (18)

Memberships and forms of co-operation: OECD (1961), CoE (1976), NATO (1949), EAPC, EU (1986), WEU (1990), Stability Pact for South Eastern Europe.

41. Romania

Date of accession: June 1973

Scale of contributions: 0.6 per cent (23)

Area: 238,391 km² (18)

Population: 22,215,421 (13)

GDP per capita in international dollars at PPP rates: 12,200 (38)

GDP growth: 7.6 per cent (6)

Armed forces (active): 73,200 (12)

Memberships and forms of co-operation: CoE (1993), NATO (2004), EAPC, EU (2007), Associate Partner of the WEU (1994), Stability Pact for South Eastern Europe, CEI (1995), SECI, SEECP, BSEC.

42. Russian Federation

Date of accession: June 1973

Scale of contributions: 6 per cent (6)

Area: 17,098,242 km² (1)

Population: 140,041,247 (2)

GDP per capita in international dollars at PPP rates: 15,800 (36)

GDP growth: 6 per cent (12)

Armed forces (active): 1,027,000 (2)

Memberships and forms of co-operation: G8 (1998), CoE (1996), EAPC, PfP (1994), NATO-Russia Council (2002), CIS (1991), Barents Euro-Arctic Council, CBSS (1992), Stability Pact for South Eastern Europe, BSEC, CSTO, SCO.

43. San Marino

Date of accession: June 1973

Scale of contributions: 0.125 per cent (40)

Area: 61 km² (54)

Population: 30,324 (55)

GDP per capita in international dollars at PPP rates: 41,900 (7)²³

GDP growth: 4.3 per cent (20)²⁴

Armed forces (active): none

Memberships and forms of co-operation: CoE (1988).

44. Serbia

Date of accession: June 1973

Scale of contributions: 0.14 per cent (39)

Area: 77,474 km² (30)

Population: 7,379,339 (26)

GDP per capita in international dollars at PPP rates: 10,900 (42)

GDP growth: 5.6 per cent (15)

Armed forces (active): 24,257 (27)

Memberships and forms of co-operation: CoE (2003), EAPC, PfP (2006), SAA (2008), Stability Pact for South Eastern Europe, CEFTA, CEI (1989/2000), SECI, SEECP, BSEC.

45. Slovakia

Date of accession: January 1993

Scale of contributions: 0.28 per cent (30)

Area: 49,035 km² (37)

Population: 5,463,046 (30)

GDP per capita in international dollars at PPP rates: 21,900 (29)

GDP growth: 6.4 per cent (10)

Armed forces (active): 17,445 (34)

Memberships and forms of co-operation: OECD (2000), CoE (1993), NATO (2004), EAPC, EU (2004), Associate Partner of the WEU (1994), Stability Pact for South Eastern Europe, CEI (1990/1993).

23 2007.

24 2007 (estimated).

46. Slovenia

Date of accession: March 1992

Scale of contributions: 0.22 per cent (32)

Area: 20,273 km² (47)

Population: 2,005,692 (45)

GDP per capita in international dollars at PPP rates: 29,500 (24)

GDP growth: 4.3 per cent (20)

Armed forces (active): 7,200 (44)

Memberships and forms of co-operation: CoE (1993), NATO (2004), EAPC, EU (2004), Associate Partner of the WEU (1996), Stability Pact for South Eastern Europe, CEI (1992), SECI.

47. Spain

Date of accession: June 1973

Scale of contributions: 4.58 per cent (8)

Area: 505,370 km² (8)

Population: 40,525,002 (9)

GDP per capita in international dollars at PPP rates: 34,600 (19)

GDP growth: 1.1 per cent (42)

Armed forces (active): 221,750 (7)

Memberships and forms of co-operation: OECD (1961), CoE (1977), NATO (1982), EAPC, EU (1986), WEU (1990), Eurocorps (1994), Stability Pact for South Eastern Europe.

48. Sweden

Date of accession: June 1973

Scale of contributions: 3.24 per cent (10)

Area: 450,295 km² (10)

Population: 9,059,651 (22)

GDP per capita in international dollars at PPP rates: 38,500 (13)

GDP growth: 0.7 per cent (44)

Armed forces (active): 16,900 (35)

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: 41,277 km² (41)

Population: 7,604,467 (25)

GDP per capita in international dollars at PPP rates: 40,900 (8)

GDP growth: 1.9 per cent (33)

Armed forces (active): 22,823 (29)

Memberships and forms of co-operation: OECD (1961), CoE (1963), EAPC, PfP (1996), EU Association Agreement (rejected by referendum), Stability Pact for South Eastern Europe.

50. Tajikistan

Date of accession: January 1992

Scale of contributions: 0.05 per cent (49)

Area: 143,100 km² (21)

Population: 7,349,145 (27)

GDP per capita in international dollars at PPP rates: 2,100 (54)

GDP growth: 7.9 per cent (5)

Armed forces (active): 8,800 (42)

Memberships and forms of co-operation: EAPC, PfP (2002), CIS (1991), CSTO, SCO.

51. Turkey

Date of accession: June 1973

Scale of contributions: 1.01 per cent (18)

Area: 783,562 km² (5)

Population: 76,805,524 (4)

GDP per capita in international dollars at PPP rates: 12,000 (39)

GDP growth: 1.5 per cent (37)

Armed forces (active): 510,600 (3)

Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1952), EAPC, EU Candidate Country, Associate Member of the WEU (1992), Stability Pact for South Eastern Europe, SECI, SEECP, BSEC.

52. Turkmenistan

Date of accession: January 1992

Scale of contributions: 0.05 per cent (49)

Area: 488,100 km² (9)

Population: 4,884,887 (33)

GDP per capita in international dollars at PPP rates: 6,100 (49)

GDP growth: 10 per cent (2)

Armed forces (active): 22,000 (30)

Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991).

53. Ukraine

Date of accession: January 1992

Scale of contributions: 0.68 per cent (22)

Area: 603,550 km² (7)

Population: 45,700,395 (8)

GDP per capita in international dollars at PPP rates: 6,900 (46)

GDP growth: 2.1 per cent (31)
Armed forces (active): 129,925 (10)
Memberships and forms of co-operation: CoE (1995), EAPC, PfP (1994), NATO-Ukraine Charter/NATO-Ukraine Commission (1997), CIS (1991), CEI (1995), BSEC.

54. United Kingdom

Date of accession: June 1973
Scale of contributions: 9.35 per cent (2)
Area: 243,610 km² (17)
Population: 61,113,205 (6)
GDP per capita in international dollars at PPP rates: 36,600 (17)
GDP growth: 0.7 per cent (44)
Armed forces (active): 160,280 (8)
Memberships and forms of co-operation: G8 (1975), OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1973), WEU (1954), Observer to the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe.

55. USA

Date of accession: June 1973
Scale of contributions: 11.5 per cent (1)
Area: 9,826,675 km² (3)
Population: 307,212,123 (1)
GDP per capita in international dollars at PPP rates: 47,000 (4)
GDP growth: 1.3 per cent (39)
Armed forces (active): 1,539,587 (1)
Memberships and forms of co-operation: G8 (1975), OECD (1961), NATO (1949), EAPC, Observer to the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe, NAFTA.

56. Uzbekistan

Date of accession: January 1992
Scale of contributions: 0.35 per cent (29)
Area: 447,400 km² (11)
Population: 27,606,007 (12)
GDP per capita in international dollars at PPP rates: 2,600 (52)
GDP growth: 8.9 per cent (4)
Armed forces (active): 67,000 (14)
Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991), CSTO, SCO.

Sources:

Date of accession:

<http://www.osce.org/about/13131.html>

Scale of contributions:

PC.DEC/850, 15 May 2008 (<http://www.osce.org/item/31117.html>)

Area:

https://www.cia.gov/library/publications/the-world-factbook/rankorder/rawdata_2147.text (accessed 1 September 2009)

Population:

(estimated as of July 2009) https://www.cia.gov/library/publications/the-world-factbook/rankorder/rawdata_2119.text (accessed 1 September 2009)

GDP per capita in international dollars at PPP rates:

(estimated as of 2008, unless stated to the contrary)

https://www.cia.gov/library/publications/the-world-factbook/rankorder/rawdata_2004.text (accessed 1 September 2009)

GDP growth:

(estimated as of 2008, unless stated to the contrary)

https://www.cia.gov/library/publications/the-world-factbook/rankorder/rawdata_2003.text (accessed 1 September 2009)

Armed forces (active):

International Institute for Strategic Studies (ed.), The Military Balance 2009, London 2009

OSCE Conferences, Meetings, and Events 2008/2009

2008

7-8 August	Hostilities break out in Georgia
8 August	OSCE Permanent Council convenes a special meeting on the situation in Georgia, Vienna
16-17 August	At the request of the Chairperson-in-Office, OSCE Secretary General Marc Perrin de Brichambaut travels to North Ossetia to assess the humanitarian situation
18-19 August	The Chairperson-in-Office takes part in meetings aimed at co-ordinating the international community's further action concerning the conflict in Georgia, Brussels
26 August	The Chairperson-in-Office condemns Russia's decision to recognize the independence of the breakaway Georgian regions of South Ossetia and Abkhazia as violating fundamental OSCE principles, Helsinki
9-11 September	HCNM visits Belgrade and Pristina
10-11 September	Secretariat/Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings: Helsinki conference on prosecution of human trafficking, Helsinki
14-20 September	HCNM visits Georgia in order to assess the inter-ethnic situation in Abkhazia and South Ossetia
15-16 September	OSCE Action against Terrorism Unit (ATU): 2008 Follow-Up OSCE Conference on Public-Private Partnerships in Countering Terrorism, Vienna
18-19 September	Secretariat/OCEEA: OSCE – UNODC – CYPRUS Regional Operational Meeting on Combating Human Trafficking and Money Laundering in the Mediterranean Rim Region, Larnaca
22-23 September	Secretariat/Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings: Follow-up Technical Seminar to the Sixth Alliance Against Trafficking in Persons Conference on National Rapporteurs and Equivalent Mechanisms, Vienna
22-24 September	FSC: Seminar on implementing the Code of Conduct on Politico-Military Aspects of Security in Central Asia, Almaty
22-26 September	Personal Representative of the Chairperson-in-Office: 300th mission and 600th inspection under the Dayton Agreement on Sub-Regional Arms Control, Bosnia and Herzegovina

23-24 September	OSCE Centre in Dushanbe/OCEEA/Ministry of Economy and Trade of Tajikistan: Seminar on creating an attractive investment and business climate, Dushanbe
25 September	OSCE Secretariat/Gender Section: Secretary General presents report on promoting gender equality in the OSCE to the Permanent Council, Vienna
29 September-10 October	ODIHR: Human Dimension Implementation Meeting, Warsaw
2 October 2008	HCNM launches Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations, Bolzano/Bozen
6-7 October	OCEEA: Regional Expert Workshop on Improving Energy Efficiency in Central and Eastern Europe, Minsk
8-9 October	OCEEA: Regional stakeholders' meeting in preparation for a Handbook of Best Practices at Border Crossings, Minsk
9-11 October	Secretariat/OCEEA: International Conference on Environment, Forced Migration and Social Vulnerability, Bonn
13-24 October	Secretariat/Strategic Police Matters Unit (SPMU): Online workshop on countering the sexual exploitation of children on the Internet
16-17 October	OCEEA: First Preparatory Conference to the 17th OSCE Economic and Environmental Forum: Migration management and its linkages with economic, social and environmental policies to the benefit of stability and security in the OSCE region, Prague
20 October	HCNM visits Germany, Berlin
20-22 October	Secretariat/Gender Section: Experts' seminar on innovative approaches to combating violence against women, Dushanbe
21-22 October	HCNM visits Ireland, Dublin
23-25 October	Scientific Information Centre of the Interstate Commission for Water Coordination/OSCE Project Co-ordinator in Uzbekistan/OCEEA: Workshop on environmental security and safety, Tashkent
23-24 October	OCEEA: Second regional stakeholders' meeting in preparation for a Handbook of Best Practices at Border Crossings, Bishkek
27-28 October	OSCE Secretariat/Section for External Co-operation: 2008 Mediterranean Conference, Amman
30-31 October	Secretariat/SPMU: Annual police experts meeting on fighting cybercrime, Vienna
4-6 November	HCNM visits Ukraine, Kiev and Simferopol

4-5 November	OCEEA: Conference on Investment and Competitiveness in Central Asia, Berlin
6-7 November	ODIHR: Supplementary Human Dimension Meeting: Democratic Lawmaking, Vienna
7 November	HCNM: Roundtable meeting for negotiators of Transnistrian settlement, Odessa
9 November	OSCE-Afghanistan Conference: Strengthening co-operation between the OSCE and its Asian Partners for Co-operation to address challenges to security, Kabul
10 November	ODIHR: Lessons learned? Holocaust remembrance and combating anti-Semitism in 2008, Vienna
11 November	OCEEA: Expert meeting on the draft OSCE Guide on Gender-Sensitive Labour Migration Policies, Vienna
13-14 November	SPMU: Regional roundtable in Central Asia on Guidebook on Democratic Policing, Almaty
16-19 November	HCNM assesses inter-ethnic relations in Croatia, Zagreb and Vukovar
17-18 November	OCEEA: Seminar on access to justice in environmental matters in South-Eastern Europe, Tirana
20 November	HCNM visits Greece, Athens
20-21 November	SPMU: Regional workshop on cross-border co-operation in Central Asia with Afghanistan to combat illicit drugs trafficking, Tashkent
27 November	FSC: Co-ordination meeting on small arms and light weapons and stockpiles of conventional ammunition, Vienna
1 December	Goran Svilanovic of Serbia takes over the office of OCEEA from Bernard Snoy of Belgium
4-5 December	16th OSCE Ministerial Council, Helsinki

2009

1 January	Greece takes over the OSCE Chairmanship from Finland. Greek Foreign Minister Dora Bakoyannis becomes Chairperson-in-Office
19-20 January	Secretariat/OCEEA: 17th Meeting of the OSCE Economic and Environmental Forum – Part 1: Migration management and its linkages with economic, social and environmental policies to the benefit of stability and security in the OSCE region, Vienna
20-24 January	HCNM visits Georgia
22-23 January	OCEEA: Aarhus Centres Meeting, Vienna
27-30 January	HCNM visits the former Yugoslav Republic of Macedonia

2 February	Visit of the OSCE Chairperson-in-Office in Serbia, Belgrade
3-5 February	HCNM visits Kosovo, Pristina and Dragas
9 February	Chairperson-in-Office visits Albania, Tirana
9-11 February	HCNM visits Slovakia, Bratislava and Komárno,
12 February	HCNM visits Hungary, Budapest
16-17 February	Secretariat/OCEEA: Seminar on gender-sensitive labour migration policies, Brdo
16-19 February	HCNM visits Serbia
17 February	Personal Representative of the OSCE Chairman-in-Office for Article IV: Vernissage, photo exhibition: More than 300 missions and 600 inspections under the Dayton Agreement on Sub-Regional Arms Control, Vienna
18-20 February	ODIHR: Special human dimension training for Kazakh diplomats, Warsaw
19-20 February	OSCE Parliamentary Assembly: 2009 Winter Meeting, Vienna
26 February	HCNM holds consultations with Czech EU Presidency, Prague
2-4 March	HCNM visits Estonia, Tallinn and Narva
3-4 March	FSC: Annual Implementation Assessment Meeting, Vienna
4 March	ODIHR: Roundtable on Intolerance and Discrimination against Christians, Vienna
5-6 March	ODIHR: Training for trainers on teaching materials to combat anti-Semitism for Polish secondary schools, Warsaw
5-6 March	Secretariat: OSCE Meeting on Training and Recruitment, Vienna
9-13 March	HCNM investigates education situation of Ukrainian minority in Russia
10-11 March	ODIHR: Training on hate crimes for OSCE, UNHCR, and IOM field mission staff, Warsaw
11 March	Secretariat/Gender Section: Roundtable on gender and security: Involving women: A key issue in security and peace reconstruction, Vienna
16-17 March	Secretariat/OCEEA: 17th Meeting of the OSCE Economic and Environmental Forum – Part 2: Migration management and its linkages with economic, social and environmental policies to the benefit of stability and security in the OSCE region, Tirana
16-17 March	Secretariat/OCEEA: Facilitating cross-border trade and transport operations, Astana

17 March	ODIHR: Roundtable on Combating Anti-Semitism, Vienna
17-18 March	FSC: Workshop on a comprehensive OSCE approach to enhancing cyber-security, Vienna
19-20 March	ODIHR: Commemoration events for the International Day for the Elimination of Racial Discrimination, Vienna
23-27 March	ODIHR: Law enforcement officers programme on combating hate crimes, Sarajevo
31 March-3 April	ODIHR: Human Dimension Course, Warsaw
8 June	Secretariat/Gender Section: Symposium on violence against women, Vienna
10 June	2009 OSCE-Japan conference, Tokyo
23-24 June	OSCE Chairmanship: 2009 Annual Security Review Conference, Vienna
24-25 June	ODIHR: Expert meeting on human rights protection in the return of trafficked persons to countries of origin, Warsaw
27-28 June	OSCE Chairmanship: Informal meeting of OSCE foreign ministers, Corfu
29 June-3 July	2009 Annual Session of the OSCE Parliamentary Assembly, Vilnius
24 August-2 October	OSCE Chairmanship: Video contest – civil society in the OSCE area

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Abbreviations

ABM Treaty	Anti-Ballistic Missile Treaty
AECT	Alliance Expert Co-ordination Team
AFBiH	Armed Forces of Bosnia and Herzegovina
AIAM	Annual Implementation Assessment Meeting
AIFV	Airborne Infantry Fighting Vehicle
AII	Adriatic-Ionian Initiative
AMG	Advisory and Monitoring Group
APC	Armoured Personnel Carrier
ARF	ASEAN Regional Forum
ASEAN	Association of Southeast Asian Nations
ASRC	Annual Security Review Conference
ATU	Action against Terrorism Unit
AU	African Union
BMO	Border Monitoring Operation
BOMCA	Border Management Programme for Central Asia
BRIC	Brazil, Russia, India, and China
BSEC	Black Sea Economic Cooperation
BSMC	Border Security and Management Concept
CACO	Central Asian Cooperation Organization
CBMs	Confidence-Building Measures
CBSS	Council of the Baltic Sea States
CBSS TF-THB	CBSS Task Force against Trafficking in Human Beings
CDE	Conference on Confidence- and Security-Building Measures and Disarmament in Europe (Stockholm)
CEC	Central Election Commission
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEEA	Co-ordinator of OSCE Economic and Environmental Activities
CEFTA	Central European Free Trade Agreement
CEI	Central European Initiative
CENTCOM	Central Command
CFE Treaty	Treaty on Conventional Armed Forces in Europe
CFSP	Common Foreign and Security Policy
CIA	Central Intelligence Agency
CICA	Conference on Interaction and Confidence-Building Measures in Asia
CIG	Centre for International Governance
CiO	Chairman-in-Office/Chairperson-in-Office
CIS	Commonwealth of Independent States

CIVPOL	Civilian Police
CoE	Council of Europe
COMECON	Council for Mutual Economic Assistance
CORE	Centre for OSCE Research
CPC	Conflict Prevention Centre
CPC/OS	Conflict Prevention Centre/Operations Service
CSBMs	Confidence- and Security-Building Measures
CSCE	Conference on Security and Co-operation in Europe (since January 1995 OSCE)
CSO	Committee of Senior Officials
CST	Collective Security Treaty
CSTO	Collective Security Treaty Organization
DDPS	Département fédéral de la Défense, de la protection de la population et des sports/Swiss Federal Department of Defence, Civil Protection and Sport
DoD	US Department of Defense
DSC	Department of Security Co-operation
EAEC	Eurasian Economic Community
EAPC	Euro-Atlantic Partnership Council
EAR	European Agency for Reconstruction
EBRD	European Bank for Reconstruction and Development
EC	European Commission
EC	European Community
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECJHAT	European Commission Justice and Home Affairs Team
ECPRP	European Commission Police Reform Project
ECtHR	European Court of Human Rights
EED	Economic and Environmental Dimension
EEF	Economic and Environmental Forum
EGCC	Expert Group for Co-operation on Children at Risk
EITI	Extractive Industries Transparency Initiative
ENP	European Neighbourhood Policy
ESDP	European Security and Defence Policy
EU	European Union
EUFOR Althea	European Union Force Althea
EULEX	European Union Rule of Law Mission in Kosovo
EUMM	European Union Monitoring Mission
EUPAT	European Union Police Advisory Team
EUPM	European Union Police Mission
EUPOL	European Police Mission
EUSR	European Union Special Representative
FATF	Financial Action Task Force on Money Laundering
FDFA	Swiss Federal Department of Foreign Affairs

FIIA	Finnish Institute of International Affairs
FIU	Financial Intelligence Unit
FRY	Federal Republic of Yugoslavia
FSC	Forum for Security Co-operation
G8	Group of Eight
G20	Group of Twenty
GAERC	General Affairs and External Relations Council
GDP	Gross Domestic Product
GFAP	General Framework Agreement for Peace in Bosnia and Herzegovina
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit/ German Agency for Technical Co-operation
GUAM	Georgia, Ukraine, Azerbaijan, Moldova
HCNM	High Commissioner on National Minorities
HDIM	Human Dimension Implementation Meeting
HEID	Institut de hautes études internationales et du développement/Graduate Institute of International and Development Studies
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICITAP	International Criminal Investigative Training Assistance Program
ICJ	International Court of Justice
ICMPD	International Centre for Migration Policy Development
ICNND	International Commission on Nuclear Non-Proliferation and Disarmament
ICO	International Civilian Office
ICR	International Civilian Representative
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDPs	Internally Displaced Persons
IFAS	International Fund for Saving the Aral Sea
IFES	International Foundation for Electoral Systems
ILO	International Labour Organization
IMF	International Monetary Fund
IMWG	Inter-ministerial Working Group for Monitoring Security Policy Implementation and Training
INF Treaty	Intermediate-Range Nuclear Forces Treaty
INS	Immigration and Naturalization Service
IOM	International Organization for Migration
IPTF	International Police Task Force
IRZ	Deutsche Stiftung für internationale rechtliche Zusammenarbeit/German Foundation for International Legal Cooperation

ISG	International Steering Group for Kosovo
JCC	Joint Control Commission
KazISS	Kazakhstan Institute for Strategic Studies
KCPSED	Kosovo Center for Public Safety Education and Development
KFOR	Kosovo Force
KPS	Kosovo Police Service
KPSS	Kosovo Police Service School
KSF	Kosovo Security Force
KVM	Kosovo Verification Mission
MANPADS	Man-Portable Air Defence Systems
MAP	Membership Action Plan
MAPE	Multinational Advisory Police Element
MDA	Missile Defense Agency
MGI	Managing Global Insecurity
MFA	Ministry of Foreign Affairs
MIND	Mobile Interpol Network Database
MoU	Memorandum of Understanding
NAC	North Atlantic Council
NACC	North Atlantic Cooperation Council
NAFTA	North American Free Trade Area
NATO	North Atlantic Treaty Organization
NGOs	Non-Governmental Organizations
NRC	NATO-Russia Council
NRF	NATO Response Force
NRM	National Referral Mechanism
OCEEA	Office of the Co-ordinator of OSCE Economic and Environmental Activities
ODIHR	Office for Democratic Institutions and Human Rights
OECD	Organization for Economic Co-operation and Development
OGRF	Operative Group of Russian Forces
OHCHR	Office of the High Commissioner for Human Rights
OIC	Organisation of the Islamic Conference
OMIK	OSCE Mission in Kosovo
OSCE	Organization for Security and Co-operation in Europe
PA	Parliamentary Assembly
PACE	Parliamentary Assembly of the Council of Europe
PAMECA	Police Assistance Mission of the European Community to Albania
PC	Permanent Council
PCA	Partnership and Cooperation Agreement
PCC	EU-Ukraine Parliamentary Cooperation Committee
PfP	Partnership for Peace
PKF	Peacekeeping Forces

PSIO	Programme for the Study of International Organization(s)
RCC	Regional Cooperation Council
RFOM	Representative on Freedom of the Media
SAA	Stabilization and Association Agreement
SALW	Small Arms and Light Weapons
SCO	Shanghai Cooperation Organisation
SECI	Southeast European Cooperative Initiative
SEECF	South-East European Cooperation Process
SHKB	Shërbimit të Kontrollit të Brendshëm/Internal Control Service
SIDA	Swedish International Development Cooperation Agency
SMC	Security Model Committee
SPMU	Strategic Police Matters Unit
SRSF	Special Representative of the UN Secretary-General
START	Strategic Arms Reduction Treaty
TACIS	Technical Assistance for the CIS
TANDIS	Tolerance and Non-Discrimination Information System
TF-THB	Task Force against Trafficking in Human Beings
TISP	Transitional Institutional Support Programme
UAV	Unmanned Aerial Vehicle
UN/UNO	United Nations/United Nations Organization
UNCHR	United Nations Commission on Human Rights
UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR/ UNOHCHR	United Nations High Commissioner for Human Rights/UN Office of the High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women,
UNMIK	United Nations Interim Administration Mission in Kosovo
UNMIK DCA	UNMIK Department of Civil Administration
UNODC	United Nations Office on Drugs and Crime
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
USAID	United States Agency for International Development
USSR	Union of Soviet Socialist Republics
VD	Vienna Document
WCO	World Customs Organization
WEU	Western European Union
WHO	World Health Organization

WMD	Weapons of Mass Destruction
WTO	Warsaw Treaty Organization
WTO	World Trade Organization

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