

Christian Strohal

More Must Be Done. The OSCE and the Protection of Human Rights after the Astana Summit

While we have made much progress, we also acknowledge that more must be done to ensure full respect for, and implementation of, these core principles and commitments that we have undertaken [...], notably in the areas of human rights and fundamental freedoms.

Astana Commemorative Declaration 2010¹

After an interval of more than a decade,² the 56 participating States of the Organization for Security and Co-operation in Europe (OSCE) agreed to meet again at Summit level in December 2010. Key to securing this agreement was the priority given to the idea of a Summit by Kazakhstan, which held the Chairmanship in 2010. While there was a widespread, if vague, feeling that a Summit was somehow overdue, only very few countries originally saw a pressing need to meet at the level of Heads of State or Government.

Before and after the Summit, much has been said about the “Astana spirit”,³ about renewal and new life, adapting the Organization, and meeting the challenges of the future.⁴ Consensus on what this means, however, remains somewhat elusive – especially when it comes to translating verbal

Note: A version of this contribution was previously published in: Wolfgang Benedek/Florence Benoit-Rohmer/Wolfram Karl/Manfred Nowak (eds), *European Yearbook on Human Rights 2011*, Vienna 2011, pp. 499-512.

- 1 Organization for Security and Co-operation in Europe, Summit Meeting, Astana 2010, *Astana Commemorative Declaration: Towards a Security Community*, SUM.DOC/1/10/Corr.1, 3 December 2010, p. 1, at: <http://www.osce.org/mc/73962>. For all OSCE documents, see www.osce.org.
- 2 The previous (sixth) OSCE Summit was held in 1999 in Istanbul. Cf. OSCE, Sixth Heads of State Summit, Istanbul, at: <http://www.osce.org/who/timeline/1990s/15>.
- 3 As the president of the Chairmanship country and host of the Summit concluded: “We have reconfirmed our support to the comprehensive approach to security based on trust and transparency in the politico-military field, on rational economic and environmental policy and on the full-fledged observation of human rights, basic freedoms and the rule of law”. He also called the Summit “a triumph of common sense” – presumably meaning the triumph of pragmatism over ambition. For an initial assessment of the Summit, see also Wolfgang Zellner, The 2010 OSCE Astana Summit: An Initial Assessment, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2010*, Baden-Baden 2011, pp. 23-30. For a more polemical contribution, cf. Vladimir D. Shkolnikov, *The 2010 OSCE Kazakhstan Chairmanship: Carrot Devoured, Results Missing*, EUCAM Policy Brief No. 15, April 2011, available at: <http://www.eucentralasia.eu/publications/Policy-Briefs.html>.
- 4 The president of Lithuania, which holds the 2011 Chairmanship, declared hopefully: “Our goal in the OSCE is clear – to build a true democratic security community without dividing lines, where all the commitments are implemented, the use of force is unthinkable and human rights and fundamental freedoms are fully respected.” Cited in: OSCE Press Release, *Astana declaration adopted at OSCE Summit charts way forward*, 2 December 2010, at: <http://www.osce.org/cio/74236>.

commitments into the kind of concrete action on the ground that makes the Organization relevant, most significantly in the prevention of conflicts, such as the one that erupted so dramatically only two years earlier as a result of the invasion of Georgia by Russian troops.⁵ The triumph of pragmatism over ambition was most evident in the lack of agreement over an action plan. The resulting disappointment and criticism voiced at the end of the Summit⁶ were so tangible that it was felt necessary to officially counter them.⁷ An academic workshop was organized only a few days after the Summit ended,⁸ and other activities put the burden for the further elaboration of an action plan on the shoulders of future chairmanships.

5 Cf. OSCE Office for Democratic Institutions and Human Rights, *Human Rights in the War-Affected Areas Following the Conflict in Georgia*, Warsaw, 27 November 2008, at: <http://www.osce.org/odihr/35578>.

6 As expressed in interpretative statements at the end of the Summit. E.g.: “The United States, of course, regrets that we were not able to agree at this Summit to an Action Plan delineating the OSCE’s future work.” Or the Russian delegation: “We are forced to note, however, that because of the ideology-driven approach taken by some participants in the negotiation process, which has nothing to do with the goal of achieving harmony, it has not been possible to reach a compromise.” The EU put it in a friendlier tone: “While we regret that the Summit could not approve an action plan, we see that our future work can be energized by the ideas negotiated during the preparations for the Summit”. Statements to the press were even blunter. As one journalist put it in a nutshell: “[...] no matter how much Nazarbayev pushed the idea that the 56-member organization had achieved consensus, the proceedings on the summit’s final day left an impression of profound, perhaps irreconcilable differences within the OSCE.” Joanna Lillies, *Kazakhstan: Astana OSCE Summit Breaks Down Over Conflict-Resolution Differences*, in: Eurasianet.org, 2 December 2010 at: <http://www.eurasianet.org/print/62494>.

7 The head of the Organization’s Conflict Prevention Centre reduced expectations *ex post facto* in the OSCE’s own magazine: “Of course, there was also disappointment. The disappointment arose because before Astana, there was an expectation that more would be achieved, that there would be agreement on an action plan. To be honest, I never understood why this expectation gained hold and why people were so adamant about fulfilling it. We had a draft document [...] but this framework [...] did not say anything about the quality or depth of this work, or about the political will behind it. [...] But there is nothing in the document that stands in the way of working on any one of those tasks. Indeed, the divergences of views were not related to 98 percent of what was in the framework for action. The divergences were related to the protracted conflicts.” *Results and Challenges*. Interview with Herbert Salber, in: *OSCE Magazine* 1/2011, p. 8. These were, however, the very issues that Salber’s unit is responsible for mitigating. Salber also felt, somewhat inappropriately, that “OSCE commitments and standards have been eroding over time, which is natural as the political environment changes and other ideas come up.” *Ibid.*, p. 7.

8 Unfortunately, the website documenting this event was completed by the OSCE Secretariat only three and a half months later. On the topic of security and human rights, it states that “one participant questioned whether the need to continually reaffirm human dimension commitments was not itself an indication that these were not universally shared. It was suggested that some countries might not believe that advancing human dimension issues serves security” and continues rather ominously, “the main challenge for the 2011 Lithuanian Chairmanship, according to one speaker, was how to avoid creating a schism within the OSCE through its attention to civil society, which could further reduce the engagement of some participating States in the OSCE” (this was a reference to the contribution by Martha Brill Olcott of the Carnegie Endowment), OSCE, Vienna Experts Roundtable, at: <http://www.osce.org/home/75836>.

Nonetheless, the Summit identified a need to do more, notably in the area of human rights.⁹ This raises a number of questions: How can the Organization, and specifically the 2011 Chairperson-in-Office (CiO),¹⁰ Foreign Minister Audronius Ažubalis of Lithuania and his successors, respond? Are there clear benchmarks for determining success? And how much weight will be given in the political work of the Organization to strengthening the implementation of key commitments undertaken by all participating States for the effective protection of human rights, the rule of law, and the realization of pluralist democracy? Has the purpose of the Astana Summit, in other words, been sufficiently defined, in order to clarify not only expectations, but also results? And does the outcome, whatever its shortcomings, amount to a renewed commitment to the Organization itself? Do governments wish to make full use of the OSCE and develop it in line with challenges old and new?

Now that the Summit's dust has settled, it is appropriate to take a step back and examine the fundamentals of the OSCE as they affect the protection of human rights, and consider how they can – and should – evolve as a result of the Summit. “More must be done.” What does this mean in practice?

Institutional Set-up: How to Make a Difference

The OSCE made a major contribution to Cold War détente¹¹ and ultimately to bringing about the end of that conflict. Its holistic security concept – “comprehensive security” – places the individual (and not the state) at its centre. It applies this approach in the spheres of conflict prevention and conflict management. To enable this people-centric approach, the Organization's crisis management and crisis prevention activities are largely executed by a distributed network of institutions¹² and field activities, which work closely with the CiO, who brings his political engagement. This “grounded-ness” is arguably the OSCE's most significant comparative advantage: It *works in, and from, the field*, while maintaining a political body, the Permanent Council (PC), at headquarters for intergovernmental debate and decision-making; both are supported by a Secretariat in Vienna.

As the mandate of field operations and presences has to be renewed at annual or even six-monthly intervals, often in quite protracted negotiations, it

9 See the passage from the Astana Commemorative Declaration quoted below the title to this contribution.

10 An official OSCE Fact Sheet explains the role of the CiO as follows: “Overall political responsibility lies with the Chairperson-in-Office, the foreign minister of the country holding the Chairmanship, which changes annually.”

11 Until 1995, the OSCE was known as the Conference on Security and Co-operation in Europe (CSCE), see below.

12 The Office for Democratic Institutions and Human Rights in Warsaw, the High Commissioner on National Minorities in The Hague, and the Representative for the Freedom of the Media in Vienna.

is the activities of the three institutions and the Secretariat that provide the greatest potential for sustained engagement with specific issues.¹³

It is no coincidence that the institutions have been mandated to deal with human rights issues: In the early 1990s, these issues were identified as crucial for transition, conflict prevention and management, and co-operation. Today, the Organization's work for the protection of human rights remains decisive for its (and its Chairpersons') success – especially in terms of public perception. The key to strengthening the OSCE security community is therefore to further strengthen the cross-dimensional security concept by safeguarding human rights, the rule of law, and democracy as essential elements of security at the local, national, and regional levels.

Substantive Challenges: Honour the Promise

The challenges and deficits in this regard have remained quite consistent over the years, in spite of fundamental changes in the overall geo-political situation since the adoption of the 1975 Helsinki Final Act: The momentum for democratization created by the Organization's precursor, the negotiation process known as Conference on Security and Co-operation in Europe (CSCE) has, of course, contributed to major positive developments throughout large parts of the former Soviet sphere of influence, especially since 1989. More recently, however, this transformation has slowed down, especially in some parts of the former Soviet Union. One must therefore ask how the OSCE's response to existing and emerging challenges has changed and improved, and whether all the OSCE participating States share to the same degree the commitment to engage with the Organization and its programmes.

In the protection of human rights, three areas seem particularly critical to the assessment of success and failure, as they are often illustrative of the situation of human rights as a whole: the overall implementation of the promise contained in the OSCE commitments, the protection of human rights defenders, and democratic elections and their monitoring.

Implementing the Commitments

The most significant ongoing general challenge in the human dimension lies in the effective implementation of these commitments, which are both wide-

13 Swedish Foreign Minister Carl Bildt put it at the Summit as follows: "The OSCE institutions, in particular the Office of Democratic Institutions and Human rights (ODIHR), with its important work on the election process, the High Commissioner on National Minorities (HCNM) and its role in silent diplomacy and the Representative for the Freedom of the Media (RFOM) and its highly important work on protection of journalists; these institutions are the guardians of the OSCE." Regeringskansliet, Ministry of Foreign Affairs, OSCE Summit 2010, Statement by H.E. Mr. Carl Bildt, Minister of Foreign Affairs, SUM.DEL/20/10, 1 December 2010, p. 1, at: <http://www.osce.org/cio/73898>.

ranging and highly detailed. They are extensive enough to require a dedicated catalogue, and have been, ever since the Helsinki Final Act, groundbreaking in many ways.¹⁴ A number of unresolved problems persist, however, and need to be addressed more effectively. In fact, since the OSCE governments spelled many of them out at the Lisbon Summit in 1996, the substance of these problems have not changed significantly:

Among the acute problems within the human dimension, the continuing violations of human rights, such as involuntary migration, and the lack of full democratization, threats to independent media, electoral fraud, manifestations of aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism, continue to endanger stability in the OSCE region.¹⁵

Ten years later, in 2006, the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) reminded the Ministerial Council of this ongoing challenge in its comprehensive report entitled *Common Responsibility*.¹⁶ The report lists each commitment to be implemented, surveys the state of implementation, details pervasive problems encountered, and makes proposals to improve implementation. Five years later, the report remains as relevant as it was then. At meetings such as the Astana Summit, the commitments – including the commitment to implement – may be reaffirmed, yet the gap between words and deeds remains, in many regards, in a number of countries.

Strengthening Civil Society

One feature often mirrors the state of implementation of human rights commitments as a whole: civil society and the effective protection of relevant rights, especially the freedoms of association, assembly, and expression. This situation remains critical, especially regarding NGOs, the media, and human rights defenders – so does the Organization's response in contributing effectively to their protection.¹⁷

14 Cf. the recently published third edition of OSCE human dimension commitments, OSCE ODIHR, OSCE Human Dimension Commitments, 3rd edition, Warsaw 2011, Volume 1: Thematic Compilation, Volume 2: Chronological Compilation, available at: <http://www.osce.org/odihr/76894>.

15 Lisbon Summit Declaration, in: OSCE, Lisbon Document 1996, DOC.S/1/96, Lisbon, 3 December 1996, pp. 5-9, here: p. 6, section 9, at: <http://www.osce.org/mc/39539>.

16 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, available at: <http://www.osce.org/odihr/22681>.

17 See the *Guidelines on Freedom of Peaceful Assembly* published jointly by ODIHR's Panel of Experts on the Freedom of Assembly and the European Commission for Democracy through Law of the Council of Europe ("Venice Commission"), 2nd edition, Warsaw/Strasbourg 2010, at: <http://www.osce.org/odihr/24523>, and OSCE ODIHR, *Handbook on*

This is the case because of the frequently precarious situation of human rights defenders and journalists, which is of great interest to the media, parliamentarians, and the public, and inevitably leads to the question: What has the Chairperson done concretely to support an individual who is being harassed by their own government? This concerns the Organization's capacity to respond to persistent patterns of harassment, or worse, of groundless persecution and even killing of human rights activists, and, in particular, cases of reprisals against those who attend those very OSCE meetings that are intended to provide a forum for interaction with civil society.¹⁸ At the same time, meetings of the PC remain essentially "off limits" for NGOs, as there is no consensus on bringing the critical element of civil society closer to inter-governmental discussions.

So both substantively and structurally, more must be done indeed.

Election Observation

The OSCE's work in the electoral arena constitutes, in the opinion of many, but not necessarily all, the *unique selling proposition* of the Organization.¹⁹ It produces the most instant media recognition, with all its positive and less positive sides, and some overall structural questions, too: Are the conditions in place that allow ODIHR to undertake its – highly professional – observation without interference? How are its reports followed up? How does the Organization participate any such follow-up activities? What measures can it take in cases of systematic non-implementation?

The maintenance of a comprehensive – and targeted – election observation programme in spite of continuing criticism from a few participating States is seen by many, rightly, as a success in itself. It has proved possible to continue observation in line with ODIHR's established methodology. Notwithstanding the fact that ODIHR was forced by the Russian authorities to abandon its plans to observe Russia's parliamentary and presidential elections in 2007 and 2008, the Office was able to deploy without restrictions in every other country that has held an election since then. This positive development occurred despite the Russian Federation's active efforts to make

Monitoring Freedom of Peaceful Assembly, Warsaw 2011, available at: <http://www.osce.org/odihr/82979>.

18 Until recently, the situation of human rights defenders has been documented annually by ODIHR; cf. OSCE/ODIHR, *Human Rights Defenders in the OSCE Region: Challenges and Good Practices, April 2007 – April 2008*, Warsaw, December 2008, as well as in the records of the annual Human Dimension Implementation Meetings which ODIHR hosts in Warsaw. This is the largest regularly occurring human rights conference of the region with around 1,000 participants, roughly half of whom represent civil society organizations.

19 Cf. Christian Strohal, *Democratic Elections and their Monitoring: Can this OSCE Success Story Be Sustained?* In: Wolfgang Benedek/Wolfram Karl/Anja Mihr/Manfred Nowak (eds), *European Yearbook on Human Rights 2009*, Vienna 2009, pp. 247-264, and references cited therein.

countries in its self-declared sphere of interest restrict ODIHR's observation in a similar fashion.

Answers to the questions above, in particular regarding the systematic follow-up to ODIHR's election observation reports, however, remain patchy: While election observation is a collective exercise, organized by ODIHR for the benefit of all participating States on the basis of collective commitments,²⁰ and with the active involvement of observers from nearly all states,²¹ the follow-up to reports and recommendations is largely left to individual governments themselves, without the systematic involvement of institutions other than ODIHR. In fact, the PC and its new sub-structure, the Human Dimension Committee, are the bodies in which systematic follow-up should be developed.²² So here too, more must be done.

Structural Challenges

The search for the Organization's response to these challenges necessarily touches upon its structural set-up. Here too, three areas seem to us crucial for measuring success: interplay within the Organization, co-operation with outside partners, and the political and oversight role of the PC.

Interaction of Institutions Within the Organization

How does the institutional set-up of the Organization function when it comes to facilitating national transformation processes and addressing new challenges collectively, on the one hand, and crisis management, on the other? How are the different OSCE instruments harnessed to work together, how are they deployed, how do they co-operate – with each other, with the CiO, and with governments?

It is the field operations²³ and the three institutions that have characterized the Organization's "added value" for a long time. To sustain that value, however – and to make it sustainable – there is a need to put in place stronger and more systematic impact assessment of the activities carried out in the participating States, and to be ready to refuse to undertake projects that are

20 See, for the commitments, OSCE/ODIHR, *Existing Commitments for Democratic Elections in OSCE Participating States*, Warsaw, October 2003, at: <http://www.osce.org/odihr/elections/13957>.

21 It took, however, until 2006 to ensure the participation of observers from the countries most critical of observation, notably Russia.

22 Regarding the PC and its committees, see below. For arguments encouraging the stronger involvement of the OSCE's Human Dimension Committee, see: *Common Responsibility*, cited above (Note 16), sections 213-217, pp. 71-72. A first step has been made, as the sessions of this committee now include a standing agenda item on "Follow up to ODIHR's election-related activities".

23 Currently 17 in number, after the unfortunate closure by the Belarusian authorities of the OSCE Office in Minsk in December 2010.

not genuinely embraced by the authorities who request them. Missions and institutions must be kept flexible enough to respond to windows of opportunity effectively as they open. They do this at present, and it is appreciated by everyone involved. In order to avoid “window-dressing”, two trends need further strengthening: the move, most discernable within ODIHR, from individual projects to more comprehensive and longer-term programmes; and the application of results-based management – as long as it is understood in the appropriate manner: not mechanistically, but strategically, ensuring that capacity-building is not substituted for genuine political, legal, and administrative reforms.

This interplay has gained relevance in recent years as the role of the Secretariat has become more comprehensive as it expanded beyond its two core functions of providing mere “administrative” and operational support to the Organization’s nearly 3,000 staff, on the one hand, and supporting the political leadership of the Organization as embodied in the Chairperson-in-Office, on the other. It has developed substantive units in a number of areas, including on cross-cutting issues involving the protection of human rights, such as the fight against trafficking in human beings, gender mainstreaming, and police co-operation, especially in the fight against terrorism,²⁴ and will continue to do so regarding other transnational threats. While this development could create overlaps, or raise competency questions, overall it has been rather beneficial in terms of strengthening the substance and political relevance of the Organization as a whole.

However, this development necessitates an accompanying effort in three areas: ensuring the continuing autonomy of the three institutions, close collaboration with them by all concerned, and effective management by the Secretary General – in close co-ordination with the heads of the three institutions and the Chairperson-in-Office. In other words, the capacity-building conducted by all parts of the Organization on the ground needs to be co-ordinated, and complemented by more systematic programming at the political level.

A Special Case: The OSCE Parliamentary Assembly

While co-operation among the institutions, the Secretariat, and the field operations is largely successful, a somewhat more unfortunate example of an ill-defined relationship is given by the OSCE Parliamentary Assembly (PA). Some 20 years after its creation, it remains unclear whether it sees itself as part of the Organization, or apart from it.

24 For an example of a critical review of the OSCE Secretariat’s activities in the area of police assistance, see David Lewis, *Reassessing the Role of OSCE Police Assistance Programming in Central Asia*, Central Eurasia Project, Open Society Foundations Occasional Paper Series No. 4, New York, April 2011, available at: http://www.soros.org/initiatives/cep/articles_publications/publications/occasional-paper-4-20110411/OPS-No-4-04-11-2011.pdf.

Of course, it is not a parliament as such, being composed of parliamentarians appointed by their national parliaments, and, in addition, a broad variety of parliaments resulting from somewhat uneven electoral processes. But even then, it cannot be compared to other international assemblies of parliamentarians, such as the European Parliament, which has real co-decision powers, nor to the Parliamentary Assembly of the Council of Europe, with its much more developed structure and working methods.

While it tries to emulate such bodies, it is, in reality, more of a loose club with an ever-changing and uneven membership, and no strong structures other than a couple of sessions per year and a small staff of 14, located, somewhat incongruously, in Copenhagen.

In theory, however, the PA embodies great potential to be a partner for everyone else in the Organization, and a player at the national level, especially through the following activities:

- Substantively: raising topics for further development and operationalization throughout the Organization. This is clearly a success, and was realized over recent years, especially with regard to issues such as combating trafficking in human beings and anti-Semitism, supporting human rights defenders, and strengthening the OSCE's gender focus.
- Structurally: ensuring its engagement with other parts of the OSCE family, with governments, and especially with civil society. In this regard, the record is less clear, especially at the local level.
- Domestically: supporting implementation in a systematic manner in the framework of national parliaments. It is here that the PA's record is arguably least consistent.

The current reality thus does not fulfil the role of providing parliamentary leadership and support: While individual members of the PA and the head of its Secretariat have high ambitions, one finds, more often than not, that these cannot be sustained: there is little longer-term engagement beyond a few issues, little capacity for substantive input, and little support overall from the small Secretariat.

This rather unsatisfactory picture becomes most visible around election observation, where contingents of parliamentarians from the PA typically complement ODIHR's long-term observation teams for a few days around election day: They often limit their role primarily to developments they themselves witness on election day, rather than the overall long-term electoral process or the statistical overview provided by ODIHR's far larger team of observers. Individual parliamentarians often show an interest in developments regarding candidates standing for parties that occupy a similar position in the political spectrum as their own, an attitude which can contrast with the impartiality and professionalism of ODIHR observers. Furthermore, parliamentarians do not always familiarize themselves with details of the compre-

hensive observation methodology developed by ODIHR – they like to rely on their instincts.²⁵ They therefore do not always pay enough attention to the details of electoral administration essential for the implementation of OSCE commitments. As regards the reporting of observation activities, the interest of parliamentarians too often concentrates on creating headlines, which necessarily creates simplifications. They may even comment on the results, which of course are irrelevant for the OSCE's purposes, as long as the votes are counted correctly. Their most tangible shortcoming, however, lies in a lack of willingness to take on a meaningful and sustained follow-up role at the national level and among their fellow-parliamentarians.

These gaps between aspiration and reality are further exacerbated by an unrealistic ambition to “be in the lead” of electoral observation and to control the Organization's budget. On both counts, the OSCE States have been resisting, given the serious shortcomings mentioned above. Still, more systematic involvement of key members of the PA in all aspects of the Organization's activities could make a serious and politically significant contribution to enhancing the OSCE's impact on the ground overall.

As far as parliamentary assemblies of other international organizations are concerned, much the same can be said about the Parliamentary Assembly of the Council of Europe, which has, however, a stronger follow-up capacity, and that of NATO. The European Parliament, on the other hand, concentrates on extra-European elections, in a smart division of labour with the OSCE.

Co-operation with Other International Organizations

The international community has come a long way from the times of happy parallelism (tempered by occasional mutual irritations) among the OSCE, the Council of Europe, the European Union, NATO, and the United Nations. Not only is there now stronger awareness in the various secretariats of the needs and benefits of close co-operation, there is also closer scrutiny by governments to ensure that overlaps are avoided; on the whole, all the parties involved have realized that there is more substantive work that needs to be undertaken with the help of international organizations than can be met under their increasingly stringent budgetary constraints.

Yet we live in an era in which many of these international actors are reforming or even reinventing themselves: the European Union, NATO, the Council of Europe – and the OSCE as well. There is therefore a continued need to develop synergies further, and there is bound to be friction. But over-

25 “*We can sniff it*” is a comment often made by parliamentarians regarding violations of electoral processes, which contrasts with ODIHR's systematic observation methodology. ODIHR has been given its mandate by the participating States precisely to avoid reliance on impressionistic experiences, and this has been put into effect via the creation of a comprehensive framework for systematic sampling over a long period, as detailed in ODIHR's handbooks for electoral observation. ODIHR's successful methodology has been emulated by other observer organizations.

all, co-operation works well; “turf battles” have largely been eliminated, as has “forum shopping” by governments seeking “easy treatment” or avoidance of scrutiny.

In the field of human rights, this means a continuing focus on the effective division of labour and co-ordination with the European Union and its Fundamental Rights Agency, the Council of Europe, and other partners, especially regarding the nexus between international and national law, and national as well as international monitoring and implementation control. Work should also continue to develop and execute assistance programmes to address identified shortcomings. The OSCE would benefit from further aligning its priorities with external incentive structures of the European Union and exploiting – to the fullest extent possible – cross-conditionalities, such as the European Neighbourhood Policy.

A Concrete Example: Engaging with the “Arab Spring”

An example where there is an urgent need for more systematic international co-operation is currently presented in developments within OSCE partner countries. The Organization has undertaken a renewed effort to forge a closer and more systematic relationship with them, not only in the case of Afghanistan, but also and especially in response to recent developments in north Africa and the wider Arab world²⁶ and their implications for the building of democratic institutions, effective protection of human rights, and transparent political processes in the region. While it is too early to judge if these efforts will be sustained, a genuine and long-term engagement by all elements of the Organization with these countries and their diverse transition processes would not only extend the purpose of the OSCE to new shores, but also enable it to highlight its own experiences and successes. At the same time, it gives it a prime opportunity to demonstrate effective co-ordination and co-operation with other international organizations – and particularly the EU, the CoE, and the UN – on the ground.

The Role of the Permanent Council

The OSCE’s PC provides for a fully fledged diplomatic machinery in Vienna, ensuring quite a range of activities among representatives of the 56 participating States, including at least one formal PC meeting per week, as well as a range of specific informal consultations on human rights-related subjects.

Here, key indicators for success relate to the degree to which peer review and peer engagement can be ensured and sustained, going beyond mere debate and addressing concrete solutions to problems that have been identified either

26 The OSCE maintains special relations with twelve countries, known as Partners for Co-operation. Six of them are in the Mediterranean region, including Algeria, Egypt, Jordan, Morocco, and Tunisia.

in the Council itself or through the institutions. In addition to providing for a more structured framework for dialogue, there have also been calls for the Council to engage more systematically with civil society and the media.

Over the last few years, a number of positive developments have been implemented, including enlarging the opportunities for a more specific interaction beyond the PC's institutionalized – and formalized – weekly sessions, in particular through the creation of three subsidiary committees, corresponding to the three main substantive “dimensions” of the OSCE. The work in these committees – and especially in the Human Dimension Committee – indicates a strong potential to go beyond the ritualized plenary sessions of the PC and engage in real and substantively detailed exchange not only of criticism, but also of concrete experience and possible solutions.

In the context of peer review, it has been suggested that the PC adapt the Universal Periodic Review of the UN Human Rights Council in Geneva to its purposes.²⁷ The Human Dimension Committee could be a starting point for this effort.²⁸

Overall, however, there remains a need to ensure more systematic follow-up to all decisions made at the annual Ministerial Meetings, particularly in the framework of the PC. More needs to be done. This cannot be achieved through structural adjustments of the intergovernmental machinery, but rather by developing and maintaining the necessary political will. And it is in this regard that the role of the CiO, with the support of the Secretary General of the Organization, becomes crucial.

*The Political Challenge: Enhancing Trust, Engagement, and Ownership –
A Role for the Chairperson-in-Office*

A Framework for More Systematic Engagement

The OSCE conducts a broad range of concrete and operational activities that have major significance for the achievement of the Organization's objectives. In the wide field of promoting and protecting human rights, however, the feeling of ownership is somewhat skewed: A few countries, whose attitudes are still influenced by the legacy of the Soviet Union, are uncomfortable with the emphasis placed on implementing commitments in the field of human rights. They do not so much question their validity (even if references to

27 Cf. Christian Strohal, *Alive. And Well? The Need for a Stronger Peer Engagement in the OSCE*, in: Wolfgang Benedek/Florence Benoit-Rohmer/Wolfram Karl/Manfred Nowak (eds), *European Yearbook on Human Rights 2010*, Vienna 2010, pp. 297-308.

28 A number of ideas related to rendering the OSCE's monitoring processes in the human dimension more effective have already been explored by Jens Narten, *Options for A General OSCE Human Dimension Monitoring Instrument*, CORE Policy Paper, Hamburg 2006, at: http://www.core-hamburg.de/documents/CORE_Policy_Paper_on_OSCE_HD_Monitoring_Aug_2006.pdf.

“traditional values” and similar vague concepts can be heard periodically from some of them); rather they lament what amounts in their eyes to unequal application. In this, however, they fail to see that the variations in the attention given to implementation deficits in different countries are the result of differences in the extent and severity of these deficits.

In order to respond, the Organization has to find ways to enhance the feeling of ownership, especially in countries where the political leadership casts doubt on the OSCE’s relevance while civil society asks for stronger involvement. A range of options is available in this regard, as briefly discussed in this article, and should be pursued more systematically, in order to create a framework for more systematic engagement. They include the following:

- developing a clearer set of benchmarks and impact assessment tools for the Organization’s co-operation programmes in order to strengthen the link between these programmes and the implementation of OSCE commitments;
- bringing these programmes closer to the regular debates in the framework of the PC, especially regarding their impact and results;
- ensuring a more systematic follow-up to reports from institutions and field missions, including through standing discussion and the development of recommendations in the committees of the PC;
- creating an annual implementation report to the Ministerial Council;
- developing a systematic peer review process;
- opening the PC to observers from civil society and the media;
- ensuring more systematic involvement of specialists from government – including ministers of justice and interior – not only in the Organization’s political discussions, but also in its practical activities;²⁹
- ensuring more systematic involvement of parliamentarians in all activities of the Organization;
- developing a more interactive role for the Secretary General, including through the creation of the post of Deputy Secretary General;
- strengthening the involvement of the CiO – see below.

In addition, participating States should discuss recommendations from the preparations for the Astana Summit and from previous efforts to strengthen the Organization³⁰ within the framework of a dedicated follow-up process to the Summit.

29 The Human Dimension Implementation Meetings and Seminars organized by the ODIHR involve a broad range of practitioners; these participants should be brought more systematically also into follow-up activities, both at country and headquarter (PC) levels.

30 Including those made in ODIHR’s Common Responsibility report, cited above (Note 16), summarized at pp. 78-81.

The Chairperson-in-Office

The role of the Chairperson-in-Office is crucial with regard to most, if not all, of these measures: The holder of this office has to engage fully,³¹ assume ownership, and project the role of the Organization continually vis-à-vis the political leadership of its 56 participating States.

In addition, the CiO is the prime interface with the wider world of politics, institutions, and the media. Therefore, it is the Chair that is vested with the need to garner necessary political support and momentum rapidly, and maintain it, especially in crisis prevention and crisis management on the ground. Equally, the visibility of the Chair's support for the ongoing work of the institutions and field missions in addressing concrete human rights deficits is crucial, and needs to be maintained, particularly in crisis situations.³²

While the OSCE has developed a specific instrument over the years in the form of the appointment of Personal Representatives of the CiO with responsibility for various issues, most recently a high-level envoy for protracted conflict situations, there is no Personal Representative with specific responsibility for human rights-related issues.³³ The Astana Summit's affirmation of the need to do more in this regard could provide the motivation for such an appointment. Alternatively, the CiO will have to take on a much stronger role, and involve him/herself much more actively in maintaining a human rights focus, a proposition difficult to realize effectively, not only for reasons of time, but also because the CiO has to keep the overall political picture in mind, in the context of which human rights are often seen as an irritation.

Just continuing the current level of support provided by the CiO requires not only close collaboration between all parts of the Organization and its collective leadership, but also – and even more importantly – regular contacts at the political level in all participating States. Ministers need to be involved more frequently in the work of the Organization to enhance both trust and ownership. This argues not only for more systematic outreach by the CiO, but also for a more visible Secretary General, who could be entrusted

31 The current High Commissioner on National Minorities, Knut Vollebæk, estimates that he spent 40 per cent of his time on OSCE matters during Norway's 1999 Chairmanship, when he was foreign minister and CiO – hardly a proportion any foreign minister has available, or reckons with in preparing for the one-year Chairmanship.

32 Cf. the role of the Slovenian Chairperson-in-Office in granting ODIHR a mandate to produce a report following the massacre in the unrests in Andijan in Uzbekistan, and his ongoing support (cf. OSCE/ODIHR, *Preliminary Findings on the Events in Andijan, Uzbekistan, 13 May 2005*, Warsaw, 20 June 2005, available at: <http://www.osce.org/cio/46541>), and the mandate and support of the Finnish Chairperson-in-Office for producing a report on the Russian invasion of Georgia (cf. OSCE/ODIHR, *Human Rights in the War-Affected Areas Following the Conflict in Georgia*, cited above (Note 5)).

33 The three Representatives on tolerance and non-discrimination, who have been appointed on an annual basis since 2003, represent a somewhat delicate compromise that was reached at the time after lengthy consultations, between dealing with anti-Semitism in full recognition of its uniqueness without disregarding other major areas of discrimination.

more systematically by the CiO with specific missions (as would also be possible with the heads of the three institutions).

A Need for Political Leadership

In sum, it may still be justified to hope that the Astana Summit may have a stronger and more lasting effect on progress regarding key human dimension challenges than did Lisbon. The annual Ministerial Meeting will have to take a far broader approach: Its preparation should not only focus on following up previous decisions, the Secretary General and the Heads of Institutions should also be invited to present updates and key challenges. In addition, the Meeting should open itself up to civil society. Finally, it should establish a systematic follow-up procedure and calendar for the PC.

The Astana Summit raised expectations that stagnation could be overcome. The Chairperson-in-Office can – and should – provide effective leadership towards this goal. Equally, the leaders of all participating States must ensure that they honour the promises made at all OSCE meetings effectively. More must be done indeed.