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Foreword by the Chairperson-in-Office

The main challenge for Lithuania's OSCE Chairmanship was to take forward the vision elaborated by the 56 OSCE Heads of State or Government in the Astana Commemorative Declaration, which set forth a vision of a free, democratic, common, and indivisible Euro-Atlantic and Eurasian security community stretching from Vancouver to Vladivostok, rooted in agreed principles, shared commitments, and common goals. Under Lithuania's Chairmanship, the OSCE has taken meaningful steps towards the realization of this vision.

This is a major and ambitious task, which cannot, of course, be achieved in a single year. In my first address to the OSCE Permanent Council in January, I set out five main priorities:

- To register tangible progress in addressing protracted conflicts;
- To significantly improve our record of implementation of media freedom commitments;
- To enhance the OSCE's profile with regard to transnational threats, including those emanating from the territory of Afghanistan;
- To define the OSCE's role in the energy security dialogue; and
- To promote tolerance education throughout the OSCE area in order to combat hate crimes and discrimination.

I believe that we have made progress in all of these areas. I am especially proud of the work that the Chairmanship team, the OSCE executive structures, and the 2011 Chairmanships of the OSCE Forum for Security Co-operation (FSC) have done in getting the Transdniestrian settlement process back on track, updating the Vienna Document 1999 on confidence- and security-building measures, creating the Vilnius Guidelines on the protection of journalists, enhancing the OSCE's capacity to combat transnational threats, strengthening co-operation with our Partners for Co-operation, and successfully concluding the mandate of the OSCE Office in Zagreb.

The culmination of our Chairmanship was the Vilnius Ministerial Council, at which the OSCE foreign ministers took decisions on enhancing OSCE capabilities in early warning, early action, dialogue facilitation and mediation support, and post-conflict rehabilitation. Decisions were also taken on addressing transnational threats, promoting equal opportunity for women in the economic sphere, strengthening the transport dialogue, the role of the OSCE in facilitating UN Security Council Resolution 1540, dealing with small arms and light weapons and conventional ammunition, and on issues relevant to the FSC. A declaration on combating all forms of human trafficking was agreed. Ministers also decided to enhance engagement with OSCE Partners for Co-operation, and Afghanistan, in particular. This is especially critical as we near the drawdown of international forces from the country.

As the holders of the Chairmanship of a regional security organization, in addition to our planned priorities and work, we also had to quickly and effectively respond to political and security events in our region.

The year started with the news that the Belarusian authorities had not agreed to extend the mandate of the OSCE Office in Minsk. The OSCE nevertheless continued its work in Belarus, for example through the activities of the OSCE Representative on Freedom of the Media and the monitoring by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) of the trials of those arrested following the 19 December 2010 presidential elections (report published on 10 November 2011). On 6 April, fourteen OSCE participating States invoked the 1991 Moscow Mechanism, which led to a report and recommendations on the human rights situation in Belarus. Throughout the year, I tried to maintain a dialogue with our Belarusian counterparts, presenting a package of possible OSCE activities, while often speaking out against violations of human rights and fundamental freedoms.

The Chairmanship was concerned about repeated flare-ups of violence in northern Kosovo, particularly in the latter part of the year. I frequently appealed for calm and co-operation, reinforcing the message during my visit to South-eastern Europe on 4-8 July. I also emphasized the urgency of regional co-operation in finding a humane solution for the refugees and internally displaced persons who were driven from their homes during the upheavals in the Balkans during the 1990s.

In January, my deputy Evaldas Ignatavičius visited Albania in order to prevent escalation of the confrontation between pro-government and opposition sides in Tirana. The Chairmanship also accompanied the OSCE Secretary General when he visited Albania in March to further counsel calm in the pre-election period.

Throughout the year, we actively promoted implementation of the Community Security Initiative (CSI) in Kyrgyzstan, which is designed to restore confidence between the communities and in the law-enforcement agencies and to deal with security challenges in the country following the violent inter-ethnic conflicts of 2010. The Chairmanship continued to monitor the situation in the country, together with representatives of the EU and the UN.

The most important and dramatic events in our neighbourhood, the so called “Arab Spring”, involved a number of OSCE Partners for Co-operation. We immediately offered the expertise that the Organization has accumulated over the past two decades in assisting with democratic transition processes, and our colleagues from the OSCE Parliamentary Assembly monitored the elections in Tunisia. An important development in our relations with OSCE partners is the decision by Mongolia to apply to become our 57th participating State. I hope that we can welcome Mongolia early in 2012.

Our first priority – achieving tangible progress in addressing protracted conflicts – proved to be the most challenging. The resumption of the official 5+2 negotiations on the Transdniestrian settlement was a success that re-

quired a concerted diplomatic effort led by my Special Representative for Protracted Conflicts, Ambassador Giedrius Čekuolis. Both of us were in regular contact with the Russian Federation, Ukraine, the EU, and the US.

At the beginning of February, I visited Moldova and met with officials and civil society activists from both banks of the Dniestr/Nistru River. Informal meetings in the 5+2 format were held in Vienna in February and April, and in Moscow in June. The OSCE organized three informal meetings between Prime Minister Vlad Filat of Moldova and Transdniestrian leader Igor Smirnov. On 9 September, in Bad Reichenhall, Germany, we had a small breakthrough with the adoption of a set of regulations governing the operations of the Expert Working Groups on Confidence-Building Measures. This was followed up on 22 September in Moscow, where the participants in the Permanent Conference on Political Issues in the Framework of the Negotiation Process for the Transdniestrian Settlement agreed to resume their formal negotiations in the 5+2 framework. The first meeting took place in Vilnius on 30 November and 1 December.

Unfortunately, despite the tangible progress achieved throughout 2011 in the negotiation process, a separate Ministerial Statement on the resumption of the official 5+2 negotiations on the Transdniestrian settlement could not be adopted.

One of the highest priorities for Lithuania's Chairmanship of the OSCE has been to enhance the Organization's capabilities to address all phases of the conflict cycle, and to promote settlement of protracted conflicts.

At the beginning of the year, we initiated the V to V Dialogues (Vancouver to Vladivostok via Vienna and Vilnius), involving informal ambassadorial discussions in the style and spirit of the Corfu Process, focusing on the conflict cycle. The dialogue was further extended to include experts from academia, think tanks, and NGOs.

During the V to V Dialogues as well as workshops, seminars, and discussions in the Security Committee and other negotiating forums, OSCE participating States exchanged many ideas on how the OSCE might strengthen its capacity in this core function. This resulted in a Ministerial Council (MC) decision on *Elements of the Conflict Cycle, Related to Enhancing the OSCE's Capabilities in Early Warning, Early Action, Dialogue Facilitation and Mediation Support, and Post-Conflict Rehabilitation*. This should enhance the Organization's ability to prevent and respond to conflicts and crises in the OSCE area.

Freedom of the media was a high priority for the Lithuanian Chairmanship. In all my visits to OSCE States, I stressed the need for full implementation of OSCE commitments related to freedom of the media. A Conference on *Safety of Journalists in the OSCE Region* was held in Vilnius on 7-8 June. On the eve of the Vilnius Ministerial, together with the OSCE Representative on Freedom of the Media I launched a manual of good practices that promotes the safety of journalists, building on the recommendations of the Vil-

nius conference. It offers concrete guidelines to protect journalists and to ensure that those who use force or violence against journalists are brought to justice. Unfortunately, no consensus was reached on an MC decision on enhancing safety of journalists, despite the fact that many journalists in the OSCE area continue to face violence, harassment, and even death merely by exercising their professional responsibilities. I am pleased that the incoming Irish Chairmanship has expressed its intention to continue work in this area.

We also made progress in the FSC. The Vienna Document (VD) 1999 on confidence- and security-building measures was updated and reissued at the Vilnius Ministerial Council as the VD 2011. It incorporates nine so-called “VD Plus” decisions that have been developed over the past two years. In order to simplify the process of updating the VD in the future and to ensure that the Document remains relevant in an evolving security environment, a procedure has been agreed to update the VD every five years.

Transnational threats continue to be one of OSCE’s priorities, and we brought to the Ministerial Council a package of decisions on issues including terrorism, drugs, cyber-crime, and police-related activities. Unfortunately, it was not possible to reach consensus on several elements of that package. Nevertheless, a decision was adopted on *Strengthening Co-ordination and Coherence in the OSCE’s Efforts to Address Transnational Threats*, which refers, among other things, to the Secretary General’s proposal to create a new department in the Secretariat to address transnational threats. The Secretary General’s well-crafted proposal, which builds upon ideas debated by the participating States since 2009, constitutes a meaningful step towards strengthened OSCE efforts to address transnational threats.

In 2011, the OSCE and its participating States were also affected by the ongoing global financial crisis, which has had political and social, as well as economic consequences. It has put the Organization under particular pressure to deliver the best value for the contributions provided by the participating States; it has diminished the ability of some participating States to support the Organization’s activities by providing seconded personnel and extra-budgetary contributions; it has consumed the time and attention of political leaders across the OSCE area; and it has underscored the importance of effective co-ordination of the OSCE’s activities with those of other international and regional organizations, in the interest of avoiding unnecessary duplication of effort.

On the whole, this has been a challenging year for the OSCE region and therefore for Lithuania and the Chairmanship. I am convinced that together we were able to take meaningful steps that can enable progress across all areas of the OSCE’s activity. The common vision of a security community remains the right one. In the coming years, it is up to all participating States of the OSCE to make that vision a reality.

Preface

The OSCE is a unique actor in the international arena thanks, in part, to its comprehensive and multidimensional concept of security. In the sense of this term, as used in the OSCE context, security is only guaranteed when human rights are regarded as integral to it on an equal footing with economic and environmental and politico-military issues. The inadequate implementation of human dimension commitments is therefore just as much a threat to security as failures of implementation in any other dimension. After the end of the Cold War, the OSCE's human dimension was extended beyond the protection of human rights and fundamental freedoms to include the promotion of democracy and the rule of law.

The OSCE human dimension commitments are set out in several key documents. The most comprehensive and fundamental of these is the Copenhagen Document of 1990, which also explicitly focuses on minority rights. A significant step forward was taken in the Moscow Document of 1991, in which the participating States declared that the "commitments undertaken in the field of the human dimension of the OSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned".¹ The Heads of State or Government of the 56 OSCE participating States rooted this key norm more firmly in their 1992 Helsinki Summit Declaration and reiterated and reaffirmed it once again at the Astana Summit in 2010.

The Office for Democratic Institutions and Human Rights (ODIHR) is the principal institution devoted to the human dimension of the OSCE. It started work in 1991 as the small CSCE Office for Free Elections, with only a handful of staff, and was renamed ODIHR at the Prague Council Meeting in 1992, where the foreign ministers of the participating States also decided to give it additional functions. This year, ODIHR celebrated its 20th anniversary as one of the Organization's most successful institutions. To fulfil its mandate to assist OSCE participating States in implementing their human dimension commitments, ODIHR carries out work in five broad areas: elections, democratization, human rights, tolerance and non-discrimination, and Roma and Sinti issues. Today, from its Warsaw headquarters, ODIHR performs these tasks with a highly professional staff of over 150 experts and

¹ Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe, Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 605-629, here: p. 606.

support personnel, as Douglas Wake, First Deputy Director of ODIHR, observes in his contribution to the OSCE Yearbook.²

Douglas Wake is not the only author to concern himself with ODIHR in this volume: ODIHR's 20th anniversary was a good reason for us to dedicate the special focus section of the 2011 OSCE Yearbook to its activities. More than 20 authors consider ODIHR's history, mission, and activities. First of all, long-serving ODIHR Director Christian Strohal gives a critical overview of the human-rights situation in the OSCE area after the Astana Summit. This is followed by an analysis of the Summit in terms of human rights by Jens-Hagen Eschenbächer and Bernhard Knoll. Elections are a vital aspect of democracy. In the Copenhagen Document, the participating States created a set of electoral standards and commitments that they have reaffirmed in numerous subsequent documents. Nonetheless, elections in some countries are still characterized by a failure to implement electoral standards and commitments – or even their outright violation. As a result, the participating States have agreed that election observation is the most important tool they have to identify shortcomings and to assist states in conducting free and fair elections. In his contribution, Geert-Hinrich Ahrens describes ODIHR's election monitoring activity and discusses the – not always smooth – cooperation between ODIHR and the OSCE Parliamentary Assembly in this area. While Grigorii V. Golosov describes the profound importance and impact of the key OSCE documents for democratic theory and practice, Adam Bodnar and Eva Katinka Schmidt ask whether judicial independence has been achieved in Eastern Europe, the South Caucasus, and Central Asia. Andrzej Mirga, the Senior Adviser on Roma and Sinti Issues at ODIHR, focuses on the situation of Roma and Sinti in the OSCE area. Nadezda Shvedova reviews the OSCE's contribution to gender equality, as do Andreea Vesa and Kristin van der Leest. Pavel Chacuk details ODIHR's activities in the area of human rights education, and Snježana Bokulić and Assia Ivantcheva analyse the interaction of ODIHR and civil society. Liane Adler evaluates the innovative concept of national human rights institutions, considered as key players in human rights promotion and protection, while Karin Esposito and Ruben-Erik Diaz-Plaja look at the implicit role of parliaments in the OSCE's commitments and practices relating to democracy. Finally, Jos Boonstra, Natalia Shapovalova, and Richard Youngs from FRIDE (Fundación para las Relaciones Internacionales y el Diálogo Exterior) give a detailed assessment of the OSCE's democracy support from a non-OSCE perspective.

Aside from the special focus section, contributions to the OSCE Yearbook 2011 by prominent international academic specialists, long-serving members of OSCE staff, and experienced diplomats give a comprehensive and intensive insight into the work of the world's largest regional security organization. We are particularly grateful to Marc Perrin de Brichambaut for

2 Cf. Douglas Wake, ODIHR at 20: Promoting Human Rights and Democracy in a Complex International Environment, in the volume at hand, pp. 227-240, here: p. 227.

his detailed look back at his time in office and his occasionally ambivalent experiences as Secretary General of the OSCE from 2005 to 2011. Pál Dunay undertakes an assessment of Kazakhstan's 2010 OSCE Chairmanship, which he finds to be "unique" in several respects. Ian Cliff's contribution is a critical assessment of the Corfu Process. In the section on the OSCE participating States, Ian Kelly describes the engagement of the USA in the OSCE process, Elena Kropatcheva discusses domestic developments in Belarus following the 2010 presidential election, and Payam Foroughi has written a highly critical contribution on human rights in Tajikistan and the role of the OSCE in their implementation.

In the following section on responsibilities, instruments, mechanisms, and procedures for conflict prevention and dispute settlement, Claudio Formisano and Georgia Tasiopoulou present the work of the OSCE Mission in Kosovo. Claus Neukirch reports on progress in the efforts to resolve the conflict in Transnistria. Carel Hofstra considers police reform in Armenia, and Hans-Joachim Schmidt from the Peace Research Institute Frankfurt poses the anxious question of whether war could return to Nagorno-Karabakh, particularly in view of recent military developments in Armenia and Azerbaijan. Finally, Arne C. Seifert provides an insight into the complex political systems and processes of Central Asia.

Pierre von Arx provides a contribution on the politico-military dimension of the OSCE in a detailed discussion of efforts to modernize the Vienna Document on confidence- and security-building measures. Finally, two contributions deal with the OSCE's external relations: Rita Marascalchi and Oleksandr Pavlyuk discuss the potential consequences of the Arab Spring for co-operation between the OSCE and its Mediterranean Partners for Co-operation, while Timur Dadabaev analyses Japan's Central Asia policy.

For this year's foreword, we have to thank the 2011 Chairperson-in-Office of the OSCE, Lithuania's Minister for Foreign Affairs, Audronius Ažubalis. And it is with sadness that I note the passing of Max van der Stoep. Wolfgang Zellner has written an obituary of the universally well-regarded long-standing OSCE High Commissioner on National Minorities.

As always, the publishers and editorial staff would like to thank the many authors whose engagement and extensive knowledge make the OSCE Yearbook possible in the first place.

A successful first for the editorial team in Hamburg this year has been the close co-operation we have enjoyed with an OSCE institution: ODIHR experts not only wrote the bulk of contributions to the special focus section but were involved in the planning, organization, and editing of the contributions. Particular thanks are due to Bernhard Knoll, Special Adviser to the Director of ODIHR, and Jens-Hagen Eschenbacher, ODIHR Spokesperson.

The promotion of democracy and human rights has become the OSCE's most substantial field of action. From a practical point of view, there are many examples of successful work by OSCE and ODIHR within the human

dimension. At the same time, however, deep-rooted problems with relation to the human dimension have recently surfaced. First, the implementation of relevant human dimension commitments has often left a lot to be desired. This applies to almost every participating State, to some extent. Second, of the OSCE's key human-dimension activities, election monitoring and assistance (together with standard setting and efforts to promote implementation) are the most prominent. This is precisely what the OSCE – and ODIHR in particular – have been strongly criticized for in recent years by Russia and other CIS states, which have explicitly called for activities in the human dimension to be scaled back, above all in the area of election monitoring. Yet Western states place a great deal of emphasis on these very activities. This precipitated a crisis, leading one group of experts to pronounce, in 2008, that “although not explicitly revoked, the OSCE's normative *acquis*, particularly in the human dimension is increasingly being challenged by a number of participating States. States are no longer able to agree on the meaning of key norms such as democracy and human rights.”³ This “normative division” has been identified as “a severe problem in terms of the coherence of the OSCE and the ability of its participating States to co-operate”.⁴ To resolve these disagreements and overcome this division, the participating States must engage in an open-ended and serious discussion to reach a new consensus in the OSCE's human dimension. This should also lead to negotiations on the OSCE's future human-dimension agenda.⁵

Identifying the OSCE's priorities in the human dimension for the coming years is thus vital to overcoming the new dividing lines within the OSCE area and strengthening the OSCE as a whole. What, then, should the OSCE's future human-dimension agenda be?

First, “traditional” human-dimension issues must, of course, remain a priority. Systematic violations of human rights, including minority rights, can in themselves produce a broad range of potential threats and conflicts. First of all, therefore, existing human rights norms must be observed and implemented, with the OSCE – and ODIHR in particular – assisting participating States in complying with their human-dimension commitments.

Second, democracy and the rule of law are key principles within the OSCE's concept of security, and must therefore also remain priorities. Weak governance and failing democratic institutions can result in serious security threats, while strong democratic institutions and the rule of law are vital for preventing threats from arising. This was observed in the OSCE Strategy to

3 Wolfgang Zellner, in consultation with Pál Dunay, Victor-Yves Ghebali, P. Terrence Hopmann, Sinikukka Saari, Andrei Zagorski, and experts at the Centre for OSCE Research, Hamburg, *Identifying the Cutting Edge: The Future Impact of the OSCE*, CORE Working Paper No. 17, Hamburg 2008, pp. 4, 8.

4 Wolfgang Zellner, in consultation with Alyson Bailes, Victor-Yves Ghebali, Terrence Hopmann, Andrei Zagorski, and experts at the Centre for OSCE Research, Hamburg, *Managing Change in Europe: Evaluating the OSCE and Its Future Role: Competencies, Capabilities, Missions*, CORE Working Paper No. 13, Hamburg 2006, p. 26.

5 Cf. Zellner, *Identifying the Cutting Edge*, cited above (Note 3), p. 18.

Address Threats to Security and Stability in the Twenty-first Century.⁶ Unfortunately, the process of democratic transition has been stopped or even reversed in a number of countries. Although the OSCE's democracy-related commitments have never been openly challenged, diverging developments in the area of democracy are gradually undermining the unity of the OSCE. If there is no serious discussion aiming at a common understanding of central elements that any democratic system of governance must provide, irrespective of its specific forms and traditions, divergences are likely to develop into even deeper dividing lines.⁷ ODIHR came to a similar conclusion in its 2006 report "Common Responsibility": "While the OSCE community has unequivocally committed itself to representative and pluralist democracy, it has not specified in detail which components must be in place to allow for genuine democratic government. It is in these areas where the OSCE community could benefit from finding a common language that acknowledges both the diversity of traditions and systems across the region and the need to be sufficiently clear on central aspects for effective implementation of the general commitments."⁸

Third, the 21st Century has also seen the intensification of new challenges such as terrorism; organized crime, including trafficking in human beings; and discrimination and intolerance. Most of these are cross-dimensional and thus at least touch upon the human dimension. In recent years, globalization, large-scale mobility, increased migration driven by political or economic change, and new means of communication have connected different societies and cultures. Conflicts between cultures and religions can occur within states as well as between states or regions. Intolerance and discrimination are also root causes of extremism and terrorism. Here it is also worth stressing that human-dimension commitments must be observed at all times, including in counter-terrorism activities.

Tolerance and non-discrimination are genuine cross-dimensional issues. Moreover, they concern both situations within societies and states and interstate relations; they also have transnational aspects. Hence they require national discourse, regional co-operation, and intercultural dialogue. This will probably necessitate intensified co-operation and co-ordination between the three Personal Representatives of the Chairperson-in-Office on questions of tolerance and non-discrimination and OSCE institutions such as the High Commissioner on National Minorities and ODIHR.

6 Cf. OSCE Strategy to Address Threats to Security and Stability in the Twenty-first Century, in: *Organization for Security and Co-operation in Europe, Eleventh Meeting of the Ministerial Council, 1 and 2 December 2003*, Maastricht, 2 December 2003, pp. 1-10, here: p. 1.

7 Cf. Zellner, *Identifying the Cutting Edge*, cited above (Note 3), pp. 12, 22-23.

8 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. 29, available online at: <http://www.osce.org/odihr/22681>.

Finding a proper balance between the OSCE's three dimensions should not detract from the human dimension. The achievements of the Copenhagen and Moscow Documents, in particular, must not be abandoned or watered down. The OSCE is a values-based organization that stands for democracy, the rule of law, and respect for human rights as the basis for common and co-operative security. Ultimately, upholding shared values strengthens common security.

Obituary of Max van der Stoel

On 23 April 2011, Max van der Stoel, the great Dutch diplomat and politician and the first OSCE High Commissioner on National Minorities, passed away. He was one of those outstanding personalities who reinvented the CSCE/OSCE after the end of the Cold War. Almost his whole life was dedicated to foreign policy, and he accomplished almost everything that can be achieved in this field: He was a member of both chambers of the Dutch parliament, International Secretary of the Dutch Labour Party, Dutch Ambassador to the United Nations, Deputy Minister for Foreign Affairs, Foreign Minister, and finally from 1993 to 2001, OSCE High Commissioner on National Minorities.

Max van der Stoel was an extremely judicious diplomat, a tireless and uncompromising fighter for human rights and against all kinds of authoritarian and totalitarian regimes, and a gifted political entrepreneur and institution-builder, in brief, the ideal person for the post of the OSCE High Commissioner. Asked why he had agreed to take on the job as High Commissioner, he replied: "My first look was at the mandate and what fascinated me was that there were two elements, which always had been my main interests in international politics: human rights issues and security problems."¹ These words represent the very essence of the High Commissioner's preventive diplomacy task.

When Max van der Stoel took up his position in January 1993, he had a mandate but almost no staff. The establishment of the post of the High Commissioner had been hotly debated at the 1992 CSCE Helsinki Summit Meeting, and the sceptics included a number of Western states, among them France, Spain, and the United Kingdom. Thus, in 1993 it was far from clear that the post of the High Commissioner would develop into a fully fledged OSCE institution. As the High Commissioner recalled: "There was even the question of whether I need a secretary. In fact I started with one secretary, who was seconded by the Dutch government, which also provided me with a personal adviser."² It is van der Stoel's great achievement and merit that he translated the mandate into the OSCE's most innovative institution, which is seen by almost everybody as one of the Organization's greatest success stories. Certainly, in the early 1990s, in the wake of the Yugoslav wars of secession, there was a huge demand for an institution such as the High Commis-

1 Interview with the OSCE High Commissioner on National Minorities, Max van der Stoel, on 28 May 1999 at The Hague, conducted by Wolfgang Zellner, in: Max Van der Stoel, *Peace and Stability through Human and Minority Rights. Speeches by the OSCE High Commissioner on National Minorities*, Wolfgang Zellner/Falk Lange (eds), Baden-Baden 1999 (2nd ed. 2001), p. 15.

2 Ibid., p. 14.

sioner. But it took van der Stoel's powerful personality and the trust that everybody placed in him to establish the institution of the High Commissioner. Beyond that, the High Commissioner on National Minorities has remained the OSCE's least disputed institution, one that enjoys the support of almost every major participating State, including the EU states, Russia, and the USA.

One specific aspect of Max van der Stoel's *modus operandi* must be mentioned here: In contrast to most of the OSCE, which has only rather sporadically made use of research and researchers, he had close links with academia and was very skilful in using scholarly expertise for the purpose of preventive diplomacy. The best example are the sets of issue-oriented recommendations – The Hague, Oslo, and Lund Recommendations – that were elaborated by panels of renowned scholars asked to give advice on questions with which the High Commissioner had been confronted time and again. Although not official OSCE commitments, these recommendations have been widely acknowledged, and van der Stoel's successors have continued this fruitful tradition.

The greatest miracle of Max van der Stoel, however, was that despite all his intellectual and political merits, he behaved in his personal dealings in a friendly, modest, and warm-hearted way. For him it was always the task – preventive diplomacy and human rights – that mattered, not his person. That is what made him so likeable. We will always keep him in our thoughts.

I.

States of Affairs – Affairs of State

The OSCE and European Security

Six Years as OSCE Secretary General: An Analytical and Personal Retrospective

Introduction

The OSCE is an organization like no other: It works as a political process rather than a bureaucracy, fluctuating with the tides of events in greater Europe; it remains a repository of common values and a set of commitments whose ongoing revision and renewal ensures that those values are realized in a changing world; it serves as an instrument for action in support of democratic transition and human dignity throughout its area of responsibility. To serve as Secretary General of such an organization is to be constantly adapting oneself to unexpected circumstances and the perspectives of different Chairmanships (seven during my tenure), drawing on the modest authority of the office and the uneven support of the participating States to keep a highly decentralized and very fragile operation on track. The job mirrors all the characteristics of the OSCE itself: It is vital, unfinished, ambitious, marginalized, experimental, reactive in times of crisis, and both exciting and frustrating for those who are involved in it. It requires total commitment and a great deal of patience and discretion. The following lines are therefore both analytical and personal, seeking to capture the ongoing saga of the OSCE from a unique viewpoint, without the benefit of much hindsight, but with lasting conviction.

At Home in Greater Europe

Recent anniversaries celebrated in the OSCE (thirty-five years since the Helsinki Final Act, twenty years since the Paris Charter and the Copenhagen Document) have reminded those paying attention to the retrospective soul searching of the contrast between the importance of the transformations that have taken place among the 56 participating States during the last three decades and the brevity of this period in historic terms. After the turmoil of the 1990s, the OSCE turned out to be one of the places where the aftershock of those transformations was acutely felt. The unsolved question of the role of the Russian Federation in the security of Eurasia has been at the core of the debates in the OSCE since its origins. From 2005 to 2011, despite attempts to adapt the Organization to the realities of the 21st century, this question of the role of Russia in European security has remained central to the activity of the OSCE, which has retained some of the character it possessed during the post-Cold War process. In other words, the overall atmosphere in the relationship

between the Russian Federation and the United States and their fluctuations, reflecting multiple factors – both domestic and international – remained a key factor. The EU, speaking through a single voice, has been progressively broadening its role, but its impact is still not proportional to its significance or its contribution of political, human, and material resources to the OSCE. The voice of other actors, such as the Caucasus states, Turkey, and Kazakhstan, are also increasingly strong, due to the leverage conferred to them by the consensus rule.

In the Wake of the Dual Enlargements

When I took up my post in June 2005, the tide of NATO and EU enlargement that had changed the face of Europe was still rising. The issue of Georgia was at the forefront of delegates' minds in Vienna, due largely to Tbilisi's continuous initiatives to address the problems of South Ossetia and Abkhazia with a mind to being granted a NATO Membership Action Plan (MAP). Coordination within the GUAM group was dynamic, and the US delegation was clearly supportive of the efforts of both Georgia and Ukraine following the Rose and Orange Revolutions. As a consequence, the attitude of the Russian Federation towards its partners in the OSCE and towards the OSCE itself, which had traditionally been quite positive, at least until the Istanbul Summit in 1999, now began discernibly to sour. At the weekly meetings of the Permanent Council, the exchanges between Ambassadors Julie Finley and Alexey Borodavkin became increasingly tense in spite of the energetic leadership of the Belgian Chairmanship, which delivered a remarkably substantial Ministerial in Brussels in December 2006. I witnessed first-hand one of the most visible signs of Russian frustration in February 2007 at the Munich Security Conference, when President Vladimir Putin, in a personal remark, described the OSCE as a "vulgar instrument" being (ab)used to advance Western interests at the expense of those of Moscow and other participating States. The first military incident between Georgia and Russia took place in August of 2007 (destruction of a Georgian unmanned aerial vehicle/UAV). By the end of the year, Russia had announced the suspension of its implementation of the CFE Treaty, which had been negotiated and implemented under OSCE auspices (while not part of the Organization's *acquis per se*) and had served as a pillar of the European security architecture since the end of the Cold War. Throughout the spring of 2008, signs of tension kept accumulating around South Ossetia, and all the elements of early warning were present for the OSCE ambassadors when they visited the area in June of 2008. Perhaps it was no coincidence that the NATO summit in Bucharest in April 2008 did not offer MAPs to Georgia and Ukraine, although it did affirm their desire to become members of the Alliance.

The tragic days of August 2008, the first armed conflict between two OSCE participating States this century, shook the Organization, and their consequences remain very much present. The Russia-Georgia relationship is still fraught, making the adoption of any meaningful political document almost impossible.

Although the deployment of twenty OSCE military monitors was approved within a few days of the ceasefire by the Permanent Council and they were deployed within three weeks of start of the conflict, the OSCE was ultimately not the principal organization entrusted with ensuring observance of the ceasefire on the ground. An ad hoc contact format consisting of OSCE, UN, and EU representatives was created in Geneva to serve as a framework for subsequent negotiations on the conflict. The decision to create a new EU monitoring mission seems to have emanated from the French Presidency of the European Union, which was keen to promote EU operations, rather than from the Russian side, and from the decision of the United States to let President Nicolas Sarkozy negotiate an agreement. Russia nevertheless criticized the OSCE for having failed to highlight the activities of the Georgian military in the days preceding the conflict.

Both the confrontation in Georgia in the summer of 2008 and the long-term lack of positive developments in the other difficult protracted conflicts – Nagorno-Karabakh and Transdniestria – made it clear that the unfinished business of the post-Soviet conflicts remains a central OSCE responsibility. The conflict epitomized the fact that Russia would use the tools at its disposal to stop any further dual enlargement at its borders. It also laid bare the practical limits of NATO and EU influence. The enlargement of NATO and the EU, and the willingness of the Western powers to act despite Russian objections (in Kosovo, on missile defence, etc.), had recast the European security architecture during the preceding decade in ways that Moscow felt compromised the principle of the indivisibility of security and ignored its aspirations to be recognized as a full partner in all European security issues.

It is therefore significant that, even before the conflict in Georgia broke out, an initial step had been taken to put the broader pan-European security debate back on the agenda of the participating States of the OSCE. The occasion for this was the speech given in Berlin in June of 2008 by Dmitry Medvedev, the recently installed president of the Russian Federation, who put forward the idea of a new pan-European security treaty that would ensure the indivisibility of security among the 56 participating States. This proposal was discussed informally at the 2008 Helsinki Ministerial at a special ministers' lunch, which led many of the participants to rediscover the merits of the OSCE as an inclusive forum on multidimensional security.

The Greek Chairmanship took the lead in calling for the first ever informal meeting of foreign ministers in July 2009 in Corfu, which ended up

taking place back-to-back with a NATO-Russia Council. This well attended event gave the participants a chance to revisit the whole spectrum of OSCE commitments and to stress the role of the Organization as an inclusive framework where the concerns expressed by Russia could be addressed without recourse to a new treaty. Following these exchanges, the Chairperson-in-Office (CiO) took the lead in calling for a series of ad hoc ambassadorial meetings to revisit each facet of the OSCE's remit and seek to identify potential enhancements. Thus, the Medvedev proposal can be said to have rekindled interest in the OSCE in many capitals, energizing the work of the OSCE in a way that might not have been intended by the Kremlin. It was on the eve of the Athens Ministerial Council that the draft of a treaty on European security was circulated by the Russian president, reminding his partners of key Russian concerns.

By the Athens Ministerial in December 2009, the new US administration had begun to formulate its policies towards Russia and the OSCE, and the so-called "reset" in US-Russian relations was moving forward, fuelled by the negotiations on a new START Treaty. This new environment had a positive impact on the debates in Vienna and facilitated consideration of the proposal made by the 2010 Kazakh Chairmanship to hold an OSCE Summit Meeting. By reaching an agreement with US Deputy Secretary of State Jim Steinberg at the second informal ministerial meeting in Almaty in July 2010 on the holding of a Summit, Kazakhstan's Foreign Minister Kanat Saudabayev created the conditions for a decision on the Summit itself, and opened the way for discussion of its content. A hastily arranged review conference, with sessions in Vienna, Warsaw, and Astana, served as a backdrop to solid work on a Summit Declaration and a Framework for Action for the Organization. The NGO community was allowed to participate in these preparations, and significant side events for the NGOs were organized during the Summit itself.

The Spirit of Astana

On 1-2 December 2010, the Kazakh Chairmanship brought together OSCE Heads of State or Government for the first time in eleven years. The Astana Summit was therefore an opportunity not to be wasted. It was successful in seizing the attention of a group of decision makers that is rarely exposed to the OSCE process, in taking advantage of a remarkable political configuration based on close exchanges between the US, the EU, and the Russian Federation, as energized by Kazakhstan, and in giving the Organization a new impetus for the future. The Astana Commemorative Declaration, in which the 56 OSCE Heads of State or Government identified a common vision of a "free, democratic, common and indivisible Euro-Atlantic and Eurasian security community", is substantial and positive, including comprehensive references to all three dimensions. Reading it, it is clear that while not all

the ambitions of the drafting group were met, there were nevertheless solid achievements. The Astana Commemorative Declaration includes the following: a strong affirmation of OSCE human dimension commitments, including explicit reaffirmation of key provisions of the 1991 Moscow Document and acknowledgement of the important role played by civil society and free media; a commitment to increase efforts to resolve existing conflicts in the OSCE area; forward-looking language on arms control and confidence- and security-building measures, including the concrete expectation of progress in 2011 on conventional arms control negotiations and the updating of the Vienna Document 1999; recognition of the need for greater unity of purpose and action in facing emerging transnational threats; a recognition that the security of the OSCE area is “inextricably linked” with security in the Mediterranean and Asia and a concomitant commitment to enhance co-operation with Partners for Co-operation, and, in particular, to contribute to collective international efforts to promote a stable, independent, prosperous, and democratic Afghanistan; and a commitment to work towards strengthening the OSCE’s effectiveness and efficiency. On the protracted conflicts, Astana saw agreement among the Minsk Group Co-Chairs and the presidents of Armenia and Azerbaijan on a joint statement on the need to redouble their efforts to resolve the Nagorno-Karabakh conflict. On Georgia, Russia, Georgia, and the Western participating States came closer than they have at any time since August 2008 to agreeing on a concrete OSCE role.

The 56 participating States came close to reaching agreement on the draft Framework for Action, a remarkable nine-page document that attempted to set priorities for the future work of the Organization, but could not do so because of the difficulties in agreeing on a reference to the protracted conflicts, particularly Georgia, that was acceptable to all 56 participating States. The broad agreement reached on this document nonetheless remains and has already proven helpful in guiding the work of future Chairmanships.

In negotiating the Declaration and the Framework, the participating States accepted the need for compromise across dimensions between states with different interests. The Astana texts include paragraphs on freedom of the media alongside ones on energy security and arms control. The overarching concept of a common vision, of a “comprehensive, co-operative and indivisible security community throughout our shared OSCE area”, remains to be defined in detail, but it provides a perspective for the work of the Organization during the coming years. It is no secret that media coverage of the Astana Summit was disappointing and gave a mixed assessment of the Summit results. Regrettably, this is in line with the Organization’s overall lack of visibility.

Since the start of 2011, the Lithuanian Chairmanship has been following the track laid in Astana. The Heads of State or Government acknowledged that much work still needed to be done and explicitly tasked the three incoming Chairmanships of Lithuania, Ireland, and Ukraine to follow up on the

issues agreed upon in the Astana Commemorative Declaration. In January 2011, the Lithuanian Chairmanship immediately picked up the ball, by initiating the informal “V to V Dialogue” (Vancouver to Vladivostok via Vienna and Vilnius) on topics across all three dimensions and dealing with issues of a cross-dimensional character. The hallmark of this dialogue, which is being pursued at both ambassadorial and expert levels with a significant additional contribution by the International Peace Institute, is the same spirit of openness and frankness that characterized the Corfu Process. The goal of the Chairmanship is to generate concrete ideas that will help to move forward the common agenda set by the Astana Summit. The dialogue supports the regular negotiating formats and attempts to pinpoint areas where consensus can be reached at the Vilnius Ministerial Council in December of 2011. Issues that fall under this remit include: strengthening the Organization’s capacity to address all phases of the conflict cycle and transnational threats; the updating of the Vienna Document 1999; enhancing our dialogue on energy security; strengthening confidence-building measures; ensuring the safety of journalists; and many others.

The OSCE therefore seems to have overcome the severe shock of the summer of 2008 and to have gained new momentum thanks to the dedication of three successive Chairmanships. The OSCE lost its presence in Georgia but remains a respected actor in the pan-European security business and has proved to be an effective venue for US-EU-Russian co-operation. It has regained a distinctive profile in the broader security dialogue, as illustrated by the high level of attendance at the 2011 Annual Security Review Conference (including the Secretaries-General of NATO and the CSTO and Janet Napolitano, the US Secretary for Homeland Security). The OSCE remains the framework of reference for the protracted conflicts in Nagorno-Karabakh and Transdniestria. The OSCE-related ad hoc formats that have dealt with these conflicts over the years both include the US, Russia, and the Europeans working side by side. It is interesting to see how often it is the parties to the conflicts themselves, rather than the major stakeholders, who seem to thwart the initiatives for compromise.

After a period of diffidence with regard to the Organization, the Russian Federation has been acknowledging that its work is relevant to the overall pan-European security dialogue, which encompasses the Medvedev proposals. Foreign Minister Sergey Lavrov has been, throughout my tenure, the most dedicated participant in Ministerial Council Meetings of all the foreign ministers of OSCE States, and he is an outstanding expert on OSCE issues who follows the work of his delegation closely. If only other delegations also had the benefit of such sustained ministerial attention. With Russia back in a constructive mood with regard to the OSCE, it is vital that the other key players should also be motivated. A major changing of the ambassadorial guard will take place during 2011. The Lithuanian Chairmanship will hopefully find conditions auspicious enough to pull together a number of positive

trends in time for the Vilnius Ministerial Council. The mood in the corridors of the Hofburg, post Astana, is one of pragmatism and caution. Many feel that the Vilnius Ministerial Meeting should result in a concrete and balanced package of decisions that manifests the continued relevance of the Organization. Developments relating to the monitoring by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the OSCE Parliamentary Assembly (PA) of the December 2011 Duma elections will be crucial for the success of the Vilnius Ministerial and the perception that the OSCE remains a unique tool that can guarantee a degree of implementation of human dimension commitments among its participating States.

A Weakened Foundation: CFE and CBMs

A shadow is cast on this moderately optimistic assessment, however, by the uncertainty that prevails in the field of arms control and confidence building, which is a cornerstone of the OSCE edifice. The Vienna Document 99, the Conventional Armed Forces in Europe (CFE) Treaty, and the Open Skies Treaty have served as foundations for pan-European security since their entry into force. However, since the Russian Federation suspended its implementation of the CFE Treaty – following years of unsuccessful negotiations over the so-called Istanbul commitments and the ratification of the adapted CFE Treaty – the discussion about renewing the European security dialogue in the field of conventional arms has not been doing well.

In the last year, several meetings of the so called Group of 36 (comprising the 30 States Parties to the CFE Treaty and the six NATO member states who are not parties to the Treaty) have taken place under the leadership of the US Special Representative for Conventional Arms Control, Ambassador Victoria Nuland, and her Russian counterparts, Ambassadors Anatoly Antonov and Mikhail Ulyanov. The discussions were aimed at finding a way to revive the CFE regime, perhaps through a framework document addressing the differing security concerns of the interested states. In spite of all the effort invested in this process, these sessions have not been successful. This discussion has also hampered the OSCE Forum for Security Co-operation (FSC) in its endeavours to achieve successes in the necessary update of the Vienna Document 1999. Although the FSC was formally tasked with developing a Vienna Document 2011 by both the Ministerial Council in Athens and the Astana Summit, this has not resulted in significant progress.

The major change agreed by the parties is a review of the Vienna Document at regular five-yearly intervals, possible improvements of the Document will then be implemented at these intervals. Discussions in the FSC are ongoing and many food-for-thought contributions and suggestions have been made during the last year. Some minor, technical issues have been agreed upon. However, substantial discussion about, for instance, lowering thresholds, increasing inspection quotas, and defining substantial military activities

– which would lead to better and more accurate notifications – have not found consensus. It seems that as long as the wider questions of military transparency and predictability in the framework of CFE do not achieve progress, substantial changes in the Vienna Document 1999 will not be agreed to. How much this stalemate on hard security will be detrimental to the rest of the OSCE's work is hard to assess. Conventional arms control is currently deemed by some key actors (including Russia) to be less important than issues such as co-operation on missile defence, and it may have entered a phase of critical rethinking.

The OSCE: A Flexible and Effective Platform for Action

Despite the difficult political context described above, in 2005-2011 the OSCE has shown an outstanding capacity to adapt to new developments and to transform itself from a process into a real organization entrusted with an explicit project. The multiple elements of this project have been taking shape since 2005. The 2007 Madrid Ministerial Council was a turning point in shaping new developments for the Organization and orienting it towards Central Asia. Similarly, this year's developments among Mediterranean Partners open new perspectives for co-operation between them and the OSCE in the years to come. The capacity of the OSCE system to respond to crises has been remarkable. Implementation of the cross-dimensional security concept is clearly a difficult job, but one in which the OSCE has outstanding – perhaps irreplaceable – assets.

Central Asia and the Partners in the Spotlight

Preparations for the Ministerial Council in Madrid were complex and demanding. While the very active US Ambassador, Julie Finley, was promoting the idea of an OSCE contribution to the stabilization of Afghanistan that would have rendered the OSCE more visible in Washington, Kazakhstan was actively campaigning for the Chairmanship of the Organization. It took skill, patience, and a bit of luck for the Spanish Chair to assemble a package that would shape the course of the Organization for the following years. The pivotal package adopted in Madrid decided who would chair the Organization in 2009, 2010, and 2011 (Greece, Kazakhstan, and Lithuania, respectively). The arguments for and against the decision regarding Kazakhstan polarized the participating States, and the outcome was not certain until the final stages of the meeting. Following the insertion into Kazakh Foreign Minister Marat Tazhin's speech of a number of specific undertakings on domestic reform commitments that had been agreed with the American delegation, the Kazakh Chairmanship was accepted for 2010. This would be a Chairmanship of firsts: the first Central Asian state, the first former Soviet state, the first coun-

try with an OSCE field presence and – a fact often overlooked – the first country with a Muslim-majority population to chair the OSCE. Kazakhstan was also the first state that had to actively convince the majority of participating States that it was entitled to serve as OSCE Chair. The decision on a Kazakh Chairmanship shifted the centre of gravity of the Organization towards Central Asia and opened the way for the Astana Summit, which became the next strategic debate within the Organization.

The other major Madrid decision was the tasking of the Secretariat with responding to a request by Afghanistan for assistance by developing project proposals aimed at improving security on the borders between the Central Asian participating States of the OSCE and Afghanistan, an Asian Partner of the OSCE. The OSCE Secretariat responded quickly and energetically to the task it was handed in Madrid regarding Afghanistan. I personally travelled twice to Kabul for consultations with President Hamid Karzai, while the Director of the Conflict Prevention Centre (CPC) and other Secretariat staff developed their own connections, and a dedicated task force on Afghanistan was formed within the Secretariat. As a result, a package of 16 concrete assistance projects was designed, in close co-ordination with the UN and other relevant organizations, suggesting a specific role for the OSCE. Most of these projects have subsequently been implemented or are in the process of being enacted, allowing for training of several hundred Afghan border guards and customs and police officers.

The two projects that would have entailed activities within Afghanistan, in the immediate region of the border with Tajikistan, have not been launched to date, given the lack of consensus among participating States on this issue. Setting up those projects and gaining acceptance for them was a major endeavour that mobilized the best talents in the Secretariat for most of a year, demonstrating, along the way, the responsiveness of a lean team of professionals. The OSCE has also provided practical assistance to Afghanistan by deploying ODIHR election support teams on four occasions in 2004, 2005, 2009, and 2010. It is also worth noting that Japan, another Asian Partner for Co-operation, was the first major contributor to support the Afghan projects.

Overall in 2007, the participating States gave a new impetus to the OSCE's relations with its Partners for Co-operation. The Madrid Ministerial Declaration on the OSCE Partners for Co-operation provided for the almost complete inclusion of the Asian and Mediterranean Partners in the OSCE's political dialogue. On the initiative of the Spanish CiO, the Partners for Co-operation were seated around the table and granted practically the same rights as other states to express their views. Following a suggestion I had made in 2005, this intensified political dialogue was supplemented and further strengthened with the establishment of the Partnership Fund. The Partnership Fund has since become instrumental in encouraging the Partners to voluntarily implement the OSCE norms, principles, and commitments, and has sponsored the participation of their representatives, including those from Afghani-

stan, in a variety of OSCE activities. In 2009, at the Athens Ministerial Council, Australia became the sixth Asian Partner, a recognition by a major democratic country of the value of the work performed by the OSCE in the field of security.

Developments in 2011 have confirmed this trend. For all of the frustrations experienced in day-to-day relations among the OSCE's participating States, the Organization remains a source of inspiration for the neighbouring regions because it is inclusive and founded on rich cross-dimensional expertise. The comprehensive toolbox that the OSCE has developed over the years across the three dimensions of security by supporting its own participating States in building and consolidating their democratic institutions could prove beneficial to those Mediterranean Partners that are embarking on an unprecedented transition to democracy. On the initiative of the Lithuanian Chairmanship, the OSCE has offered its support to them and dispatched delegations to Tunis, Rabat, and Cairo with the objective of identifying areas where the OSCE's expertise could provide added value, and concrete co-operation projects could be implemented. Tunisia, Morocco, and Egypt have demonstrated genuine interest; the OSCE's concrete contribution will be designed on the basis of the specific requests expressed by individual Partners. While the initial focus is likely to be on elections, the OSCE expertise in areas such as police reform, fighting corruption, media freedom, and capacity building of national human rights institutions might prove essential in the longer term. The intense dialogue initiated with Tunisia, Morocco, and Egypt on possible OSCE assistance could contribute positively to making a reality of the commitment, originally undertaken in Helsinki and reaffirmed forcefully in Astana, to address the security of the Mediterranean Partners and the OSCE region as linked and interdependent.

Responding to Crises, Setting the Record Straight

Plentiful and timely warning of the possibility of conflict in Georgia was provided during the spring of 2008. All the participating States could follow the debates in Vienna, which were numerous and explicit. The observers present on the ground performed their duty admirably, as did the remnant of the OSCE Mission to Georgia. The Finnish Chairmanship mobilized the Permanent Council and was engaged on the ground in no time, led by the personal shuttle diplomacy of the CiO and his special envoy. The decision by the EU Presidency to take the lead in brokering a ceasefire and putting together a peace agreement was made outside the OSCE and does not imply that the Organization would not have been capable of performing such a function. Remarkably, the Permanent Council reached consensus immediately after the ceasefire on the deployment of twenty additional military monitors on the Georgian side of the Administrative Boundary Line and kept

open the option to deploy up to 100 more at short notice. The response by the participating States to requests for observers was overwhelming.

This terrible and shocking crisis showed that the entire OSCE machinery can be mobilized quickly and can work effectively together when a crisis requires it. In early October, the Co-ordinator of OSCE Economic and Environmental Activities, together with the United Nations Environment Programme (UNEP), undertook a joint mission to assess the environmental impact of the conflict. In addition, on the request of the CiO and in coordination with the Council of Europe, ODIHR and the OSCE's High Commissioner on National Minorities (HCNM) sent an expert team to assess the human rights and minority situation on the ground. At the political level, the OSCE was designated a co-chair of the International Geneva Discussions, together with the EU and the UN. In November 2008, the Office of the Representative on Freedom of the Media (RFOM) organized its fifth OSCE Media Conference in Tbilisi.

All this shows that, when circumstances call for it, efforts can be effectively co-ordinated, and the Permanent Council, CiO, Secretary General, Secretariat, and institutions can work together and deliver. Throughout the crisis, the Secretariat, and the CPC in particular, worked continuously in a task-force format to bring together all the elements of the OSCE response and support the Chairmanship.

Following the conflict, South Ossetia and Abkhazia were soon recognized by Russia as independent states. This had the effect of polarizing the positions of Georgia and Russia, particularly with regard to the responsibilities of any OSCE field operation and on the question of access to the territories of South Ossetia and Abkhazia. Up to the end of 2008, no agreement could be found in the Permanent Council on the continuation of the OSCE Mission to Georgia, although the military monitors were mandated to continue their work until the end of July 2009. This was and remains a regrettable situation, which resulted in the closure of a mission that had been one of the great success stories of the OSCE. To this day, the Chairmanship and the Secretariat are still trying to find a way to overcome this impasse, with successive Chairmanships working continuously and innovatively with the Secretariat and the CPC to come up with acceptable options for re-engagement on the ground. Progress has not been forthcoming, but I remain convinced that a breakthrough on a status-neutral formula for a stronger OSCE involvement acceptable to all stakeholders is desirable and in the clear interest of all. Whatever arrangements might be agreed upon, they should enable the OSCE to enhance its support for the Geneva Discussions as well as the Incident Prevention and Response Mechanisms in Ergneti, both of which the CPC currently follows from Vienna.

The crisis in Georgia has also demonstrated that the OSCE can act rapidly and flexibly if the participating States want it to. Within two weeks of the outbreak of hostilities in August 2008, the 56 delegations to the OSCE

achieved consensus on nearly tripling the number of military monitoring officers on the ground. The EU took longer to set up its own monitoring operation, and its deployment was far more time consuming. This same case, however, also points to the weakness inherent in the consensus principle, which makes OSCE vulnerable in circumstances where its 56 participating States cannot agree. When the OSCE, including the two parties directly concerned, was no longer able – for the reasons mentioned above – to reach consensus on its presence in Georgia, this left a vacuum that was only partially filled by others. This is the mirror image of the problem confronting the EU, which has been relatively nimble in its internal decision-making, but whose decisions have not carried with them the inherent consent of the Russian Federation (and thereby of South Ossetia and Abkhazia) and which has therefore been unable to gain access to South Ossetia.

The recurrent crises in the Kyrgyz Republic during 2010 also placed great pressure on the Organization and the Secretariat, which, in my view, showed similar responsiveness and imagination in adapting to the specific realities of Central Asia and enabling the deployment of the Community Security Initiative, a completely new tool.

Implementing Multidimensional Security, the Achievements and Challenges of Confronting Transnational Threats

The OSCE concept of multidimensional security was reaffirmed repeatedly during the Corfu Process, and it is shared by many other international organizations. Yet, how to implement this concept remains an open challenge. Should specific strategies be devised that integrate the different dimensions in a co-ordinated way when the OSCE seeks to enhance the security of a given area, taking into account the specifics of each situation? How can the various and not always well connected units within the Secretariat and the institutions be made to devise coherent responses to complex situations?

I believe the OSCE has proved its capacities in at least two formats: its field operations and the unique work of its institutions. The 16 field operations have very different profiles, origins, and contexts, but all of them manage to combine programmes from different dimensions and develop approaches that work in practice as strategies. However, these attempts are rarely reflected in official documents agreed with the host country. Host countries are reluctant to allow the OSCE to maintain a long-term presence on their territories. Each Head of Mission therefore puts together a combination of programmes that reflects the expectations of the various ministries, NGOs, and civil society and seeks to get it approved by both the foreign ministry of the host country and the Permanent Council. Individual participating States have been providing up to 25 million euros a year in voluntary contributions, thus raising the ability of the field offices to carry out their initiatives. The units within the Secretariat and the institutions provide expertise

and involve the field offices in their regular substantive and pragmatic meetings, inserting them into the specialized networks that are one of the great assets of the OSCE

The three institutions are unique among international organizations, with a solid expertise on critical issues of cross-dimensional security. They have the privilege of independent voices. Among ODIHR's many capabilities, I believe the most precious is its capacity to monitor key elections and provide an in-depth assessment of the progress achieved by a given participating State in developing its democratic institutions and practices. In this sense, ODIHR election monitoring comes closest of all the Organization's activities to serving as an implementation monitoring tool. The election process is the tip of the pyramid of security and democracy, a key indicator of good governance. Similarly, the work of the HCNM touches on some of the most sensitive elements of basic security within a state, and this requires very shrewd political judgement. The RFOM is positioned at the cutting edge of the freedoms of the 21st century, with the liberty to remind governments of their duty to ensure the effective implementation of freedom of expression in all media. The institutions are and should remain autonomous in their functioning and judgement, but they can contribute greatly to the OSCE's collective effort to implement its ambitious concept of security. The preparations for the Astana Summit were a moment when this synergy could be felt, and the current work of the Human Dimension Committee is also energizing the debate in this direction. Close co-operation and mutual support in the dialogue with participating States and the consolidation of good practices within the Organization offer ample room for improvement.

Similarly, there is scope for more unity in mobilizing all the means available for combating international crime, which has been racing ahead of the tools available to individual participating States. In the last decade, the Secretariat has developed a number of parallel tracks to address new threats, and has sought to keep them in touch with each other. Integrated thinking about the new threats and challenges is increasing demand from the participating States, who are preoccupied by the rise in cybercrime, drug trafficking, and new forms of trafficking in human beings. The OSCE has developed a toolbox that can be applied in the fields of anti-terrorism, police support, border management, tackling corruption, and combating trafficking in human beings. These activities, supported by small teams located in Vienna, have included regular consultations on cutting-edge issues with participating States, international organizations, and the non-governmental sector, as well as substantive support for programmes implemented by field operations. They have been one of the success stories of the OSCE, developing their own dynamic networks and initiatives and spreading best practices broadly among participating States.

To be successful in responding to the evolving nature of transnational threats (TNTs), the OSCE has continually adapted and improved its TNT-

related instruments, adopting relevant political decisions and strengthening relevant capacities within its executive structures, such as the Action against Terrorism Unit (ATU), the Strategic Police Matters Unit (SPMU), the Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB), and the CPC Borders Unit. Now that these capacities have been firmly established and tested, we face a new level of challenges: how to enhance the programmatic coherence and co-ordination of the OSCE's TNT-related work, by clarifying substantive priorities and the respective roles of actors throughout the Organization.

In June 2010, as part of the implementation of the Athens Ministerial Council Decision on *Further OSCE Efforts to Address Transnational Threats and Challenges to Security and Stability*, I prepared a comprehensive report containing specific recommendations. I am encouraged by the high level of attention and interest that participating States have displayed in further improving the Organization's work in this crucial area by exploring potential new activities, e.g. in cyber-security, and by maximizing the overall effectiveness of OSCE TNT work. This is an area where significant progress could be made at the Vilnius Ministerial Council, but it will require a minimum of additional resources to make a difference.

Are the participating States willing to use the OSCE as a laboratory of ideas in cross-dimensional security and to give it an experimental role in supporting the fight against the growing power of criminal groups in many areas? The answer is unlikely to be straightforward, but this is one of the key questions for the future of the Organization.

The OSCE: An Unwieldy Chariot Requiring Attention and Support

One of the priorities of the 2005 Slovenian Chairmanship was to reform the OSCE and make the Organization more effective. Building on the *Final Report and Recommendations of the Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE* in June of 2005, it was expected that the Chairmanship's efforts would focus on improving the governance of the OSCE. Serious discussions led to the Ljubljana Ministerial Council Decision on *Strengthening the Effectiveness of the OSCE*, which requested further elaboration on a broad variety of topics.

The implementation of this decision proved to be one of the greatest challenges of the 2006 Belgian Chairmanship. The decision outlined a roadmap, encompassing nine areas of work, which would reform the Organization. The discussions during 2006 resulted in a number of important Ministerial and Permanent Council decisions on strengthening various aspects of the OSCE's work and effectiveness. While many delegations considered the debate closed at the end of 2006, others have continued to push for further changes. This was particularly evident during the discussion on the "effect-

iveness” of the Organization, as part of the review conference in the run up to the Astana Summit.

An Unwieldy Chariot

The overall governance of the OSCE has always been delicate and has become increasingly complex. Authority in the Organization basically rests with the CiO, who also has the responsibility to lead in shaping a consensus among the participating States. The Organization needs decisions to be adopted continuously whether as part of the budget cycle, to renew the mandates of field operations, to approve the personnel post table, or to adopt new policies or programmes. It is the Secretariat’s duty to assist the Chairmanship in all the steps of this delicate process of keeping together all the components of the Organization. Successive Chairpersons-in-Office represent a diverse group of leaders, each of whom has had their own vision for the Organization and has initially had to familiarize themselves with its intricacies. It is an ad hoc process. Each year, a new leadership team arrives with high expectations, and the Secretariat has to adapt to a new set of contacts with their own personalities and culture. The Secretary General is the direct contact for the ambassador of the country holding the Chairmanship, whom he meets at least once a week, which means that he effectively has to reinvent his role and modus operandi with each new Chairmanship. It is natural that each participating State that undertakes the responsibility of chairing the Organization and invests considerable resources in that process should expect some reward for these efforts and additional visibility for its foreign minister. Many have their own vision of where they would like the Organization to go. However, a common thread does unite each of them: the necessity and the desire to overcome divergent views among the participating States on a range of issues that run across the three dimensions. After an initial period during which they can pursue their ambitions, most Chairmanships are confronted in the second part of the year with the harsh realities of preparing the Ministerial Councils. Throughout this process, the Secretariat has to guarantee continuity and consistency in the work of the Organization and stand ready to accommodate incoming Chairmanships. As long as the responsibility for the guidance of the Organization remains entrusted to the rotating Chairmanship, I believe it will be difficult for the Secretary General to claim a full political role for himself. However, my experience has taught me that the Secretary General can have a discreet and effective political role by playing in the Chairmanship team and reflecting its priorities, while insuring that the basic tenets of the Organization are respected.

Other international organizations may have more stable institutional frameworks, but few have a decentralized structure like that of the OSCE. Each of the OSCE’s twenty-three fund managers has a great deal of effective autonomy, both financially and politically. This is, of course, true of the three

institutions, which promote their programmes directly with participating States and run their own operations with little influence from the Chairmanship and none from the Secretary General. It also applies to the field operations, which negotiate their activities with the various ministries of their host countries, defend their budgets directly in Vienna, and seek extra-budgetary funding on their own. Ultimately, only when the Unified Budget is prepared and then discussed by the Advisory Committee on Management and Finance (ACMF, an increasingly assertive body, which meets frequently) do the chair of the ACMF and the Secretariat have a say in the overall balance and dynamics of the Organization. The budgetary discussions are increasingly the occasion of fierce political negotiations on the details of each fund, a development that has made the timely approval of the Unified Budget less frequent. Thus, the unusual nature of the Organization can be a limitation on the effectiveness of the OSCE, and it is a challenge to make sure that key issues, including those that are apparently “administrative” in nature, receive political attention at the appropriate level.

Staying with the topic of reform, the Brussels Ministerial Council took an important step forward by adopting Rules of Procedure for the Organization, which at least provide a basic structure and procedure for decision making within the OSCE. This marked the first comprehensive codification of CSCE/OSCE Rules of Procedure since 1973. Further efforts following the Brussels Ministerial were dedicated to strengthening the role of the Secretary General and improving the OSCE’s programme budgeting process by introducing Performance-Based Programme Budgeting (PBPB), a results-based management methodology adapted to the needs of the OSCE. PBPB was rolled out across the Organization between 2007 and 2010, enabling the participating States and all managers within the Organization to use a common language to improve planning, implementation, and evaluation of OSCE activities, with a view to achieving maximum impact in times of shrinking budgetary resources. The OSCE thus now has a standardized and up-to-date management framework that protects its flexibility and allows all the different funds to use the same basic elements. Brussels Ministerial decisions also established the three committees of the Permanent Council – the Security Committee, the Economic and Environmental Committee, and the Human Dimension Committee – which are tasked with following the work of the three dimensions. This format has greatly facilitated the work of the Organization.

However, much still needs to be done to enable the Organization to work with greater ease and efficiency. For example, the OSCE’s Financial Regulations, which outline the OSCE’s entire financial management system, are simply outdated. There have been no new amendments since 2000. Admittedly, valiant efforts are ongoing within the relevant decision-making forum, but progress is slow, and no consensus has yet been reached on the revised Financial Regulations. I regret to say that the provisions of the Brus-

sels decisions regarding the role of the Secretary General in co-ordinating the executive structures have proved very difficult to implement. The institutions are attached to their autonomy, and tend to prefer informal conversations on issues of common concern such as the budget. There is therefore no effective mechanism that the Secretariat can use to ensure synergies and rationalizations among the institutions of the OSCE. Chairmanships usually have neither the interest nor the will to get involved in these issues.

In any honest assessment of the state of the OSCE in 2011, one cannot ignore the fact that the leadership of the Parliamentary Assembly has, over the years, pursued a policy of constant criticism either of the PA's co-operation with ODIHR or of the work of the governing bodies in Vienna, who are derided for their lack of transparency and their bureaucratic nature. This internecine sniping is wholly unjustified, and hurts the image of the Organization as a whole. Future co-operation between the PA and the rest of the OSCE should be based on a reasonable complementarity that does not rule out a revision of the responsibilities of the PA as part of the broader discussions on the future of the Organization.

The Elusive Personality

Another matter that has dogged the Organization throughout my two terms as Secretary General is the OSCE's lack of legal personality. Lack of legal personality hampers the work of the Organization in the field and is a source of continuous difficulties in everyday life. The decision reached at the Brussels Ministerial Council in 2006 to task a group of experts with drafting a convention attributing the OSCE with legal personality, international legal capacity, and uniform privileges and immunities was an initial breakthrough. Under the Spanish Chairmanship, a working group led by the Ambassador of the Netherlands, Ida van Veldhuizen, secured agreement on the text of the convention. However it proved impossible to adopt this, as a number of delegations insisted that a constituent document (Charter or Statute) should be adopted in parallel. Despite efforts by several Chairmanships to bring the issue closer to resolution, it is frustrating that no progress has so far been made, and I regret that a lack of agreement has prevented the OSCE from becoming a fully fledged international organization. In spite of this, the OSCE has again demonstrated its flexibility and resilience by continuing to function despite this regulatory gap. The bigger problem is, of course, the question of whether the Organization needs a single constituent document that would bring together the existing Rules of Procedure and the existing Summit or Ministerial decisions while taking into account and respecting the commitments that have been taken by the participating States. The Russian Federation has been promoting such an approach for years, calling for a "Charter", while the US has been consistently hostile to it.

The opening of discussions on this issue, which is supported by the EU, would be a significant breakthrough for the future of the Organization.

New Budgetary Realities.

During my time as Secretary General, the budget of the Organization progressively declined, and the mantra of “zero nominal growth” (a euphemism that masks a policy of gradual decline, as inflation cuts deeper and deeper into the resources available to the Organization) has become more pervasive. Over the years, the trend has been one of regularly decreasing resources for field operations in South-eastern Europe alongside marginal nominal increases for the Secretariat, the institutions, and some of the other field offices under a declining overall ceiling. Although this process reflects the gradual transfer of responsibilities to other organizations (most notably the EU) or is the result of political decisions (closure of the missions in Georgia and Belarus), it also is a sign of the growing pressure being exerted by key participating States on the Organization to cut its overall budget. Regrettably, this message is usually delivered by the delegates to the ACMF, and its long-term policy implications are rarely discussed at ambassadorial level. Those countries that are the most insistent on budget cuts rarely present an overall strategy for adjusting the activities of the OSCE accordingly or cutting certain mandated activities. They are often the same countries that put forward new ideas regarding OSCE activities in areas such as conflict prevention and transnational threats. Although this pattern of behaviour is not exceptional in budgetary processes worldwide, it is destabilizing for the fund managers, who have to deal with quantitative cuts emerging at the last minute during ACMF discussions. The OSCE has been consistently denied the opportunity to debate its longer term priorities, and those discussions on issues of substance that do take place increasingly carry the proviso “within existing resources”. The Secretariat and other fund managers are bound by their detailed mandates, which usually reflect complex negotiations and compromises among participating States, and which they do not have the power to revise on their own initiative. One can only hope that the ambassadors will, at some stage, recognize the seriousness of this situation and find time to work out a more articulate medium-term framework for ensuring that the capabilities of the Organization reflect its complexity and potential

A Squeezed Staff

The OSCE’s human resources are drawn from various sources and work under highly diverse conditions. While the majority of posts in headquarters are contracted and recruited on a competitive basis, the field operations rely largely on seconded personnel and locally contracted agents. Each type of staff has to deal with different challenges.

Contracted personnel are constrained by strict rules as to their maximum periods of service, which are quite short for directors (four years) and professionals (seven to ten years). This results in a high turnover and makes it difficult to retain expertise and develop institutional memory. International recruitment of qualified contracted staff is a cumbersome and time-consuming business that eats up an extraordinary amount of financial and human resources. It is also an invitation for the delegations to interfere politically with the day-to-day operations of the Secretariat. At specific junctures, I therefore pragmatically chose, in close consultation with the Troika, to extend the contracts of a very limited number of experienced individuals who occupied key positions in the Organization for a limited period of time. This was undertaken in order to guarantee the uninterrupted management of the Secretariat and the OSCE and a smooth handover, and was particularly helpful during crisis periods, such as the violence in Kyrgyzstan, or in the run-up to important political events, such as the Astana Summit. I have tried consistently to gain some flexibility from participating States in extending selectively the length of service of key personnel, while maintaining the non-career nature of the Organization. I brought the issue personally to the attention of the participating States in 2005 and again in 2009, and despite the support of many participating States for ongoing attempts to streamline and harmonize the maximum periods of service since then, there is still no consensus on the matter.

Equally problematic is the reliance on seconded personnel to form the backbone of the field operations and to provide some 25 per cent of the human resources of the Secretariat and institutions. On the one hand, a small and declining group of well organized participating States make available high-calibre applicants and provide them with decent support. On the other hand, individuals from other participating States are allowed to join the Organization and live exclusively on the BLA (Board and Lodging Allowance) provided by the Organization and other participating States. This creates major inequalities within the Organization, exposes it to real risks of corruption, and does not guarantee a normal choice of qualified applicants (the number of applicants for seconded jobs rarely reaches half a dozen, while hundreds of candidates apply for each contracted vacancy). If it is to perform the tasks assigned to it, the Organization has to rely heavily on the goodwill of individuals, but it cannot avoid a high turnover of seconded personnel in the larger missions.

Finally, the largest group of people serving the Organization, namely the locally recruited staff in the field operations and the G-level staff in the Secretariat and the institutions, carry the burden of ensuring continuity and stability in much of the work of the Organization with no formal limits on their periods of service. In the field, they do so with salaries that rarely reach the target of 80 per cent of the UN recommended pay scale and are substantially inferior to those offered by other international organizations, such as

the EU. Inevitably, the most capable staff move to other organizations after having received valuable training and experience with the OSCE.

Another important concern for the OSCE is the goal of achieving gender balance at all levels of the Organization. When I took up my post in 2005, the participating States had recently adopted an Action Plan for the Promotion of Gender Equality. This provided a mandate for gender mainstreaming in all OSCE activities. Over the years, we have seen some progress in the field of gender equality, both in the Secretariat and within the Organization at large, and I am proud of my record in this field. But, while four out of eleven contracted director-level positions in the Organization are currently held by women, a percentage well ahead of the UN and other comparable international organizations, the progress has not been as far-reaching as it should have been, due mainly to the lack of female candidates for crucial positions such as heads and deputy heads of field operations. There is currently no female among the 16 seconded Heads of Mission. As it happens, the same delegations who advocate in the Permanent Council for greater gender balance at senior levels in the Organization have also lobbied actively for their male candidates. It is up to the participating States to foster a flow of qualified female candidates for leading positions in the Organization, particularly for seconded positions. Only this way can the remaining serious gender inequalities be progressively eliminated.

An Unloved Conductor: The Secretary General

I have often joked that the main asset of the Secretary General is the prestige his title retains for historical reasons in a large part of the OSCE region. In truth, the job of the Secretary General in the OSCE, as I experienced it, is an exercise in variable geometry that depends greatly on the context and the circumstances. Expectations from and personal relationships with the Chairmanships count for a great deal. I have enjoyed close co-operation with a number of Chairmanships that requested the help of the Secretariat in shaping their plans and with whom I interacted closely in implementing those plans. I am proud of what we achieved together. I have also experienced much more control-minded Chairmanships, which were reluctant to share the limelight and their initiatives with the Secretariat and turned out to also be successful. I respect their choices, whatever frustrations they brought me.

The fact is that the OSCE Secretary General has few real prerogatives of his own and many duties towards the Chairmanship and the participating States. In the one area at his discretion, the appointment of contracted personnel in the Secretariat, he has to defend the standards of professionalism against sustained political pressures. While he is accountable to the participating States for the good management of the entire Organization and the proper implementation of the rules and regulations within it, the tools at his disposal are quite limited in a system that places great emphasis on decen-

tralization and where there are few incentives to encourage loyalty to the Organization as a whole. Most of the Organization's "barons" view the Secretary General with some suspicion and keep their distance. The support he gets from the ambassadors tends to be mixed, with some welcome exceptions.

Yet, when a crisis occurs, the role of the Secretary General as a catalyst for the efforts of the entire Organization becomes central. The Secretary General is in a position to mobilize the diverse talents that exist within the Secretariat and to reach out to the participating States to help the CiO shape the Organization's response. My most active periods in the job have been linked to crises in Georgia, the Kyrgyz Republic, and Albania as well as to the preparations for the Astana Summit. The Secretary General can discreetly build a position of "soft" influence, thanks to his network of contacts in capitals and the in-depth knowledge of issues he acquires over time. His position in Vienna, in direct contact with the ambassadors and the CiO, allows him, with some patience, to gain some leverage over other fund managers. One of my most difficult tasks has been to help the CiO deal with Heads of Mission who diverged from the good practices of the Organization, regrettably not an infrequent occurrence over the past six years.

What Role for the OSCE Among Today's European Organizations?

From my first day as Secretary General, I was preoccupied with the OSCE's relationship with other key international organizations. All of them are pulling in the same direction, all experience the same problems in building up support and authority, all are in the process of having to constantly reinvent themselves. It would be unrealistic to say that there is no competition among them, but relationships vary widely. Relations with the UN and its family are fairly easy because of the similarity in values and practices and the procedures that already exist. This is also the case with organizations such as NATO and the CSTO, whose remit is clear and complementary to that of the OSCE.

Things are different with respect to the European Union. Based on values identical to those of the OSCE, seeking to develop its own foreign and security policy, and disposing of several bureaucratic bodies, the EU has been making continuous progress in many of the areas of direct relevance to the OSCE. The EU has been speaking with a single voice in Vienna since 1993. The relationship between the two organizations is an unusual one of complementarity, competition, and asymmetry. The OSCE provides an open playing field where the EU can build up its common positions and policies and co-operate with partners such as the US, Turkey, and Russia. The EU is a major financial contributor to the field activities of the OSCE. The implementation of the Lisbon Treaty creates an opportunity for the EU to become a far more engaged and constructive force within the OSCE. The Astana Summit was illustrative of this. For the first time, the so-called "triangle" nego-

tiation format of the Russian Federation, the EU, and the US was used extensively before and during the Astana Summit. It proved to be an effective tool by which to develop consensus on contentious issues, although this achievement was ultimately marred by disagreements within the EU itself, resulting in unfortunate “interpretative statements” at the closing plenary, which shaped public perceptions of the Summit’s results.

Altogether, I believe that this is the way of the future. The EU as such has to be present and active in the OSCE and should use the OSCE format as often as possible to perform some of the security-building tasks it sets itself. During my tenure, I visited Brussels regularly, addressing the Political and Security Committee (PSC) twice a year, where I regularly reiterated my view that it is regrettable that the EU machinery and some of its member states at times still view the OSCE as a competitor rather than an effective forum for engaging with the area east of Vienna, and the OSCE’s partner states, on an equal basis. The EU member states, as represented by their delegations in Vienna and the ever stronger EU delegation to the OSCE, have the opportunity to ensure that the Organization plays a role in areas across the three dimensions where the EU has important interests, but neither the relevant expertise nor the field presence needed to accomplish its goals. The EU can also identify opportunities where the two organizations can increase their combined effectiveness by working together. This is all the more relevant given that EU member states make up 27 of the 56 participating States and provide over 70 per cent of the annual unified budget. Furthermore, over two-thirds of the OSCE’s seconded staff and about half of the international contracted staff in the OSCE Secretariat, institutions, and field operations are from EU member states.

In a smaller way, a challenge also exists in finding a sustainable, long-term *modus vivendi* between the Council of Europe (CoE) and the OSCE. The CoE claims to have a central role in promoting democracy across greater Europe and is refurbishing its network of field operations along the lines of the OSCE’s longstanding practice and drawing substantial resources from the EU. Clearly a potential for overlap and competition between the two organizations exists.

It is up to the participating States that are also EU and CoE member states to determine what they expect from each organization and how they should build up mutually supportive relationships. This is made more urgent by the budgetary restrictions which constrain donors. But in making their choices, the participating States (particularly those within the EU) would do well to bear in mind that a number of partners who are not at the CoE table – including the US, Belarus, and the Central Asian states – can be engaged through the OSCE.

The OSCE has an impressive historic record, and the job it was set up to do is far from being completed. The great vision contained in the 1975 Helsinki Final Act of a rules-based international order stretching from Vancouver to Vladivostok, and the challenge and hopes of the 1990 Paris Charter, for “a new era of democracy, peace and unity” remain powerful aspirations echoed by developments among the partner countries. Yet the attention devoted to the OSCE in most chanceries is modest. More often than not, the OSCE is handled by the “hard-security” departments, making it difficult to promote its cross-dimensional remit. Because it has a rich toolbox and an intricate structure, the Organization is difficult to understand. It is best known to a small group of “aficionados” who have served in Vienna, and is rarely mentioned at the higher policy levels. The Ministerial Councils – along with the too-infrequent Summits – are the one annual opportunity to attract the attention of ministers, and they are not always well attended. A Summit represents a chance to put the OSCE on the radar screens of Heads of State or Government, who are constantly mobilized by many other similar events.

Since the OSCE cannot count on a natural lobby, it needs a constant effort of outreach and promotion. The Secretary General has to be in regular contact with all those who are involved in various aspects of the OSCE’s work and to seek every opportunity to present it at the higher policy level. I have sought to do so. It is equally important for the voice of the OSCE to be heard in the conference circuit, which plays a significant role in shaping perceptions and policies. The OSCE needs continuous support from think tanks and the academic sector. The role played by institutions such as the Centre for OSCE Research (CORE) in Hamburg has been essential in the new analytic and reflexive phase that the OSCE has been going through since 2009. The opening of an office of the International Peace Institute in Vienna is also a very welcome development. A number of projects revisiting transatlantic and pan-European security are paying attention to the OSCE, which in many ways has been serving as a prototype for the emerging pattern of global governance. Since the international community is going through a period of transition and reinvention, it is important that the values and experience of the OSCE remain present in the debate.

I believe the OSCE lacks a major outreach event along the lines of the World Economic Forum, which would bring it vital visibility. In a different way, the OSCE also lacks a successor to the defunct International Helsinki Federation, which would play a strong advocacy role and assist the now fragmented network of Helsinki Groups. It cannot rely on a network of non-governmental donors to support its activities, particularly in the field.

Outside of brief moments of crisis, the image of the OSCE is weak and blurred, in spite of the innovative work of the Press and Public Information Section in Vienna. This is because of the inherent complexity of the Organ-

ization and the long-term nature of its work. There is also a surfeit of international organizations competing for attention and support for similar causes, which are often unintelligible to the general public. A success story on the occasion of a resolved conflict would certainly put the OSCE back in the limelight, but a continuous flow of less dramatic but still tangible achievements well reflected in all forms of media is a prerequisite for a sharper image.

By way of a conclusion, I would stress that the OSCE's unique role as an inclusive forum for dialogue among a very diverse group of states is still needed – perhaps more than ever. The divergence of views among the participating States is evident each week at Permanent Council meetings, yet it is precisely those differences that underscore the continued need for the OSCE. Participating States accept the peer pressure inherent to the continuous exchanges, and all are keen to continue this dialogue in a forum where their voices carry equal weight (a fundamental feature of the OSCE that is not replicated in NATO or the EU). Throughout my time as Secretary General, I have repeatedly made the point that the OSCE is a light structure, flexible and resilient, but also essentially fragile. In many respects, it remains more a project than an institution. It seeks to achieve demanding long-term objectives while relying on short-term instruments. It is a high maintenance, complex project, and one that requires a high degree of sustained engagement predicated on the faith and dedication of those who serve it, delegates and staff of all kinds equally. If it is to carry out the mission entrusted to it at the December 2010 Astana Summit and implement the tasks of specific interest to individual participating States, it needs the appropriate political and financial resources. It cannot afford to be left to benign neglect. If it is, its relevance may indeed diminish. Taking this project forward is an exciting and demanding job for all of us, and I have found it to be a task that is truly worthwhile. I wish the best to my successor, Lamberto Zannier, in bringing forward this fascinating task.

Kazakhstan's Unique OSCE Chairmanship in 2010

Every calendar year, another participating State takes the helm of the OSCE. In 2010, it was Kazakhstan's turn. Astana's Chairmanship attracted more attention than any other – both prior to and during the Chairmanship itself. A year later, analysts continue to try to draw up the definitive balance sheet of the Central Asian republic's time in charge of the Organization.

More often than not, these analysts make reference to the “uniqueness” of Kazakhstan's Chairmanship. It is questionable, however whether the term “unique” is meaningful in this context. In some sense, every Chairmanship is unique, just as every participating State is different. Yet the frequent use of this term may illustrate that Kazakhstan's Chairmanship was “more unique” than that of any other participating State. Kazakhstan is unique in the following ways: It was the first Chairmanship country to be a member state of the Commonwealth of Independent States (CIS) (as well as the Collective Security Treaty Organization, CSTO, and the Shanghai Cooperation Organisation, SCO), the first predominantly Muslim country, the first Asian state, the first with a semi-authoritarian regime, and the first with an OSCE field mission (the OSCE Centre in Astana) on its soil. It is not only the objective features of Kazakhstan that made its Chairmanship unique. The process by which Kazakhstan was granted the Chairmanship was also *sui generis*. It had to wait longer than any other country between its application and receipt of the Chairmanship. Kazakhstan first indicated its interest in chairing the OSCE in early 2003. This presented a problem to many participating States,¹ as doubts existed as to whether the country lived up to all the Organization's principles and norms. This was also acknowledged indirectly by Kazakh analysts.² In sum, Kazakhstan was a “special” candidate both in terms of substance, i.e. its profile, and with regard to the process by which it came to the helm.

In the assessment of Kazakhstan's application, the expectations of various groups of participating States made a fundamental difference. The countries that started out from an abstract benchmark that would allow only those

1 For a discussion of this and the divisions within the EU, see Margit Hellwig-Bötte, Kazakhstan's OSCE Chairmanship – The Road to Europe? In: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2008*, Baden-Baden 2009, pp. 175-186, here: pp. 177-178.

2 In an otherwise apologetic article, a Kazakh author contrasted the OSCE/ODIHR assessments of the 2004 and the 2007 parliamentary elections and concluded that the latter were significantly more in accord with the OSCE rules and “without significant violations of the election law”. This indirectly recognizes two facts: Neither election was in full accord with OSCE requirements, and there has been an improvement from 2004 to 2007. See Talgat Mamiraimov, Factors that Helped Kazakhstan Be Elected Chair of the OSCE in 2010, in: *Central Asia's Affairs*, 2008, pp. 3-5, here: p. 3.

states with a spotless record in everything the OSCE has addressed (and there are not many political matters – domestic or international – that the OSCE has not addressed) to be granted the Chairmanship gave Kazakhstan no chance. Understandably, the US, under an ideologically determined Republican administration, expected the Chairmanship to be held “by a nation that has demonstrated leadership in implementing all the [OSCE] commitments” including “guaranteeing citizens the basic right to free and fair elections, independent political activity, and unfettered media expression”.³ Other states were more willing to see the matter as part of an evolutionary process and assessed Kazakhstan on the basis of the progress it had made so far. Some Western European states, notably Germany, belonged in this category. Last but not least, for countries such as Russia, the decision was part of a classic Cold-War-type game. Either “we” prevail and Kazakhstan gets the Chairmanship or it does not and then it is “our” loss. This was a consequence of the face-off between a confrontational, hegemonic US and an assertive Russian foreign policy. The latter also wanted to gain credit in the post-Soviet space by backing up former Soviet republics that were willing to support Russian policy in turn. In fact, the controversy surrounding Kazakhstan’s nomination to the OSCE Chairmanship was a minor skirmish on a relatively unimportant battlefield,⁴ given the OSCE’s longstanding lack of centrality to pan-European politics. As will be illustrated later, the division that was apparent over the granting of Chairmanship also prevailed in the assessment of Kazakhstan’s performance in the Chair. That is why those who paid close attention to the Chairmanship often drew diametrically opposite conclusions from their observations.

There are some who hold the Kazakh Chairmanship to an absurdly high standard. They seem to believe that the Chairmanship should have fixed all the problems that the OSCE has accumulated over a 15-year period (since its relative decline started in the mid-1990s), while at the same time, to fulfil all the promises it made to achieve the OSCE Chairmanship, Kazakhstan would have needed to become a fully fledged democracy. These people would only have been satisfied, in other words, if Kazakhstan had achieved not only a decisive contribution to the development of the OSCE but also a major internal transformation. Others had far more realistic expectations and have thus drawn a more positive conclusion regarding Kazakhstan’s achievements in the Chair.

3 US Mission to the OSCE, response to Ambassador Rupnik, Head of the Centre in Almaty, as delivered by Deputy Representative Douglas Davidson to the Permanent Council, Vienna, 29 January 2004. Quoted by Andrei Zagorski, Kazakhstan’s Chairmanship Bid: A Balance Sheet of Pros and Cons, in: Daniel Warner (ed.), *The OSCE at a Turning Point: OSCE Chairmanship and Other Challenges*, Geneva 2007, pp. 93-124, here: p. 95.

4 Cf. Arkady Dubnov, OSCE Battlefield, in: *Russia in Global Affairs* 3/2008, at: http://eng.globalaffairs.ru/number/n_11275.

Kazakhstan was nominated to the Chairmanship at the OSCE Ministerial Council Meeting in Madrid in late 2007.⁵ It had two years to prepare for the challenging task. Indeed, for a country with limited experience in multilateral diplomacy, the challenge was a major one. In the end, Kazakhstan is a relatively new sovereign state and, compared to many European countries, has not been exposed to the workings of many international institutions. Astana had to travel a lot farther than most of its predecessors, who were members of the EU and NATO.

Kazakhstan's preparation took place on many levels. I would like to give a somewhat subjective overview of the main elements. It had both political and "technical" aspects. On the political side, some addressed the international environment, while others had domestic significance. On the international political front, Kazakhstan reassured its Western partners that it would continue with reforms aimed at making it more democratic and respectful of human rights. It also reassured Moscow that it would bring on board key issues of interest to the Russian Federation, including the securing of more attention for the politico-military dimension, resolving the current stalemate in European arms control, and prioritizing President Medvedev's European Security Treaty initiative.⁶

Domestic aspects of preparation included public-awareness initiatives. The Kazakh population learned a great deal about the OSCE and its importance. Kazakhstan made its Chairmanship a "national strategic project". However, it also effectively indoctrinated the population about the OSCE. It is possible to see this from two angles: On the one hand, it was encouraging that one state was finally heralding the OSCE as an important institution. On the other, however, the OSCE "loomed larger" in the Kazakh media than in reality, and the less informed Kazakh population could well gain the impression that Kazakhstan would be in charge of an international organization that decides major European policy issues. This positive spin contrasted starkly with the silence with which the Kazakh media greeted criticism of Kazakhstan's performance both before and after the Chairmanship in the areas of human rights, elections, and Astana's willingness to extend President Nazarbayev's term of office without an election.⁷

5 Cf. Decision No. 11/07, OSCE Chairmanships in 2009, 2010 and 2011, MC.DEC/11/07, 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. 37-38, at: <http://www.osce.org/mc/29488>.

6 A good summary of this can be found in an article published by President Nursultan Nazarbayev in Russia. See his *Sud'ba i perspektivy OBSE* [Fortune and Prospects of the OSCE], in: *Izvestiya*, 28 January 2010. Reproduced in Bulat K. Sultanov (ed.), *Predsetatel'stvo Kazakhstana v OBSE – Sbornik dokumentov i materialy* [Kazakhstan's OSCE Chairmanship – Documents and Materials]. Almaty 2011, pp. 21-33.

7 It is sufficient to mention the OSCE/ODIHR election observation mission report, which, while noting improvements compared to earlier elections, concluded that "the election did not meet a number of OSCE commitments". OSCE Office for Democratic Institutions and

In terms of “technical” preparation, Kazakhstan used those two years to find the right individuals to put its Chairmanship into practice. This included a professional team in Vienna and another in Astana, and an ambassador who would have been long enough in Vienna to become an OSCE insider by the start of the Chairmanship. There was also a need to train a fairly large team of junior diplomats, for which purpose Kazakhstan teamed up with one research centre in Germany, which has high level of competence in OSCE matters, and another in the US, which was made use of to fulfil certain political expectations. Last but not least, Kazakhstan integrated a Western ambassador into its team in Astana, who made a difference due to his insights on the OSCE. The last element of the team fell into place with the appointment of Kanat Saudabayev as foreign minister in September 2009. Kazakhstan allocated him the financial resources he needed to back his aspirations to run a successful Chairmanship. It is clear that he was appointed largely for the Chairmanship, and he left office in April 2011, not long after it had been completed. A number of other projects in Kazakhstan’s national interest were also integrated with the OSCE Chairmanship, relating, for instance, to Afghanistan and assistance to Kyrgyzstan.

The foreign minister of Kazakhstan presented a total of fifteen priorities at the start of Kazakhstan’s Chairmanship. They represented the following very broad array of matters:

1. comprehensive, collective, and indivisible security, particularly with reference to the Russian initiative on the European Security Treaty;
2. co-operation between the OSCE and other international organizations, particularly the Conference on Interaction and Confidence-Building Measures in Asia (CICA);
3. adapting the Treaty on Conventional Armed Forces in Europe (CFE Treaty);
4. assisting in the resolution of protracted conflicts;
5. supporting efforts towards nuclear disarmament;
6. focusing on the fight against illicit trafficking and terrorism;

Human Rights, *Republic of Kazakhstan, Parliamentary Elections, 18 August 2007, OSCE/ODIHR Election Observation Mission Report*, Warsaw, 30 October 2007, p. 1, at: <http://www.osce.org/odihr/elections/kazakhstan/28438>. See also the response of the US chargé d’affaires – which has a strong emphasis on respect for human rights and a reminder of the importance of election monitoring – to the presentation of the OSCE Chairmanship programme by the Kazakh foreign minister: United States Mission to the OSCE, *Response to Kazakhstani Foreign Minister Kanat Saudabayev, As delivered by Chargé d’Affaires Carol Fuller to the Permanent Council*, Vienna, 14 January 2010, at: http://osce.usmission.gov/media/pdfs/2010-statements/st_011410_saudabayev.pdf. Finally, see also the highly critical piece by US Permanent Representative to the OSCE: United States Mission to the OSCE, *Statement on Plans for a Referendum in Place of Presidential Elections in Kazakhstan*, As delivered by Ambassador Ian Kelly to the Permanent Council, Vienna, 20 January 2011, at: http://photos.state.gov/libraries/osce/242783/2011/JAN-20-11_Kazakhstan.pdf.

7. a promise to pay particular attention to Afghanistan (an agreement has been signed to provide education at Kazakh universities for one thousand Afghan citizens);
8. promoting secure and efficient land transportation;
9. responding to environmental threats;
10. supporting the work of the three OSCE institutions: the Office for Democratic Institutions and Human Rights (ODIHR), the Representative on Freedom of the Media (RFOM), and the High Commissioner on National Minorities (HCNM);
11. promoting tolerance and intercultural dialogue;
12. improving mechanisms to combat trafficking in human beings;
13. promoting gender equality policy;
14. promoting the rule of law, particularly the independence of judicial systems;
15. emphasizing fundamental human rights and freedoms.⁸

If we take a closer look at these priorities, it is clear that the list is nearly as comprehensive as the agenda of the Organization itself, and hence demonstrates no focus at all. In some of these areas, such as nuclear disarmament and terrorism, the OSCE is a relatively marginal player, and other organizations have far more relevance. It is a fact, however that Kazakhstan has developed into an important actor in nuclear policy, and thus the emphasis on that issue may well be more a reflection of Kazakhstan's historically understandable "personal" interest than anything else.

Kazakhstan made an attempt to address all three dimensions of the Organization's activity. Within the economic and environmental dimension, it prioritized two issues: environmental threats and land transport. Once again, these are important issues for the entire continent, and have particular relevance for Kazakhstan and its neighbourhood. It is sufficient to mention the problems related to the Aral Sea and radiation contamination at Semipalatinsk. The great majority of the world's goods are traded via the oceans. Landlocked countries are disadvantaged, and the development of transport infrastructure may partly compensate for this. It is a fact, however that the OSCE as a forum may again not be the most suitable venue for this discussion, given its lack of resources and expertise.

The Kazakh Chairmanship had to face some criticism for not paying sufficient attention to the human dimension.⁹ In a certain sense, it would be

8 Cf. OSCE, Kazakhstan 2010, *Statement of Mr. Kanat Saudabayev, Chairman-in-Office of the OSCE and Secretary of State and Minister for Foreign Affairs of the Republic of Kazakhstan at the 789th Meeting of the OSCE Permanent Council*, CIO.GAL/5/10, 14 January 2010.

9 This came both from the US and from the Spanish Presidency of the European Union. See *Response to Kazakhstani Foreign Minister Kanat Saudabayev*, cited above (Note 7), and Spanish Presidency of the European Union, OSCE Permanent Council No. 789, Vienna, 14 January 2010, *EU statement in response to the address by the Chairperson-in-Office, Secretary of State and Minister for Foreign Affairs of Kazakhstan, H.E. Kanat*

understandable if this were the case. Kazakhstan has long been one of the participating States that have advocated a “rebalancing” of the dimensions, first and foremost between the politico-military and the human. According to that group of states, this should be achieved by attributing more importance to the politico-military dimension. Far more significantly, however, Kazakhstan is a country that has been regularly criticized for its authoritarian political system, the shortcomings of its elections, and its lack of respect for fundamental freedoms. Although the criticism Astana has received in these areas has become increasingly moderate, particularly compared to that received by other Central Asian participating States, it is understandable that Kazakhstan did not want to prioritize issues that did not belong to its areas of particular strength. And while the criticism is well placed, Western democracies have to bear in mind that there are other elements of the human dimension which they have recently de-emphasized, including the free movement of persons, and economic and social rights. Here, the Kazakh Chairmanship made its own choice, and gave declared priority to matters such as the rule of law in relation to human rights, gender equality, and the combating of trafficking in human beings – a multi-dimensional issue that also has major human rights relevance. Last but not least, it paid lip-service to the issue of fundamental human rights and freedoms, which was the final element on Kazakhstan’s list of priorities. One may assess this in two ways. It is possible to conclude that the attention the Kazakh Chair paid to human rights was indeed insufficient. However, it can also be argued that it placed the emphasis on other elements of the human dimension, thus merely shifting its previous emphasis on Western values.

It is important to pay attention to the verbs the Chairmanship uses, such as “assist”, “support”, “focus”, “pay attention”, “improve”, “promote”, and “emphasize”. The use of language of this kind makes it incredibly difficult to measure the performance of the Chairmanship, and this may well have been Astana’s intention. When performing functions of this kind, it can be advisable to avoid identifying easy-to-measure objectives.

It was clear from the priorities it laid out that Kazakhstan was trying to give a message to each of its key partners. This clearly reflected Kazakhstan’s awareness that pursuing a multi-vector foreign policy is in its best interest. That may well be why the list of priorities presented was so long,

Saudabayev, PC.DEL/4/10, 14 January 2010, at: [http://www.delvie.ec.europa.eu/en/eu_osce/eu_statements/2010/January/Special_PC_no.789 - EU reply to CiO FM KAZ.pdf](http://www.delvie.ec.europa.eu/en/eu_osce/eu_statements/2010/January/Special_PC_no.789_-_EU_reply_to_CiO_FM_KAZ.pdf). The latter includes the following unambiguous statement: “[...] we believe we must also focus our work this year on other human dimension commitments, including those concerning human rights, fundamental freedoms, democratic institutions and the rule of law. Other issues that the EU believes deserve particular attention this year include freedom of association and assembly, freedom of expression and media, respect for human rights in fighting terrorism, prevention of torture and abolition of the death penalty, and – as you mentioned – the rule of law. We would like to see all these issues reflected in the OSCE calendar of events for 2010” (p. 5). The EU further emphasized how important it was that all participating States make use of the election observation mechanism available through ODIHR.

although it had to be clear that only a few could ultimately be realized. The question of whether states pursuing a multi-vector foreign policy have the necessary freedom of action to be in charge of a consensus-based international organization in which most or all of their main partners are sitting around the table may sound entirely hypothetical. However, it is prudent to mention that the OSCE Chairmanship is more of a challenge for states with a multi-vector foreign policy that navigates between East and West than it is for states that are firmly anchored on one side or the other. Indeed, the Chairmanships of the latter may well be a challenge for those that do not belong to the same group.¹⁰

When presenting the objectives of its OSCE Chairmanship in January 2010, Kazakhstan took an entirely novel approach. The presentation by the country's foreign minister in Vienna was preceded by a video message sent by President Nursultan Nazarbayev. It is not unknown for the foreign ministers of Chairmanship states to have difficulty in making clear to their superiors – heads of state or government – that, although technically subordinate to the latter, it is the minister of foreign affairs who is in charge of the country's Chairmanship. In the case of Kazakhstan, this was utterly predictable: If it is a national project of great importance, a project to demonstrate that Kazakhstan is heading in the right direction and that it is a leader in its region, then it will be identified with the person of the president, as has been the case since independence. On the other hand, however, the president's message was an unnecessary reminder of how centralized political power is in the country and the fact that a presidential system may conflict with the foreign minister's role as Chairperson-in-Office. The intervention by the president was not necessary, as this was not a communication to the Kazakh people, who have been taught to identify the Kazakh state with its founding president, but to the narrow circle of OSCE delegates.

The Three Non-Concentric Circles: Pan-European, Regional, and Domestic

When analysing the results and the achievements of the Kazakh Chairmanship, it is necessary to focus on three elements: What has Kazakhstan achieved for the OSCE area as a whole, including the Organization itself? What has it achieved for Central Asia – or, more broadly, the post-Soviet space? And finally, what has it achieved for the Kazakh state and its people?

From the list of achievements for the whole OSCE area, including the Organization itself, it is undeniable that no breakthrough has been achieved. The Organization did not find a new lease of life during the Kazakh Chairmanship, the balance of the three dimensions did not change noticeably,

10 It suffices to mention that the Slovenian Chairman-in-Office, Foreign Minister Dimitrij Rupel, faced protests from some states, including Russia, when he commented on the Andijan (Uzbekistan) massacre in his OSCE function.

European arms control did not move out of the stalemate, nor – and this is closely related – did the suspended CFE Treaty return to operation. The economic and environmental dimension did not gain in importance and, understandably, the human dimension did not flourish. This balance is very similar to that of many previous Chairmanships.

However, there was one notable change in the life of the OSCE. The Kazakh president declared that his country would like to host an OSCE Summit Meeting during 2010. It would have been difficult to object to such an initiative when the Helsinki Summit Meeting declared back in 1992 that “Meetings of Heads of State or Government [...] will take place, as a rule every two years on the occasion of review conferences”.¹¹ Yet no Summit Meeting had been held since 1999. Eleven years later, it was evident that there was no easy way to argue against holding another Summit. The request was made as early as January by the Kazakh president and his foreign minister. Initial reactions were cautious, as it was difficult to identify the purpose the meeting would fulfil.¹² The early announcement turned out to be a double-edged sword. On the one hand, other participating States had time to digest the idea and to be exposed to Kazakhstan’s arguments and effective lobbying in favour of its own initiative. On the other hand, however, by making its declaration four weeks after the start of its Chairmanship, Astana created a situation in which it had to make concessions to those partners that could block the realization of its intentions. Before concluding that the early proposal and strong advocacy of a Summit was a mistake, we should take an independent look and ask whether, by doing so, Kazakhstan had to compromise any of its Chairmanship objectives. Surprisingly, the response may well be in the negative. This is because the Kazakh Chairmanship did not have any objectives that would have required it to compromise. In fact, the Summit itself soon became Kazakhstan’s most important objective. Other strongly held objectives could either be implemented by Kazakhstan on its own (training of Afghan citizens, extra-budgetary project assistance to Kyrgyzstan), or, as in the case of the plan to hold a few meetings on inter-civilizational dialogue, could be supported because of their uncontroversial nature. Initially because the content of the Summit remained enigmatic – which, to some extent, remained the case even after it had taken place – it was described as a “kick-off Summit” that should lead to further development of the OSCE. When the Summit eventually took place, it adopted the Astana Commemorative Declaration and stopped short of passing an action plan.¹³ The document adopted is not particularly novel. The mere fact that it

11 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. 711, also available at: <http://www.osce.org/mc/39530>.

12 Cf. Steven Castle, Kazakhstan uses its voice as leader of O.S.C.E., in: *International Herald Tribune*, 28 January 2010, p. 3.

13 For more details, see two critical, or at least sceptical assessments of the Summit: Andrei Zagorski, *The Astana Summit Has Left the OSCE in a State of Limbo*, and Wolfgang

reaffirmed “all [...] OSCE documents to which we have agreed”¹⁴ was presented as a major achievement, but this also says a lot about the state of affairs in the Organization. Indeed, it was difficult to achieve even this reconfirmation, as the optimism and enthusiasm regarding the prospects of Europe, as well as the conditions under which the various documents were originally adopted, no longer prevail.

In the regional context, Kazakhstan promised to put Central Asia “on the map”, to raise the region’s profile, and to counterbalance the simplified view of it as a region of authoritarian regimes, if not outright dictatorships. It also promised to generate more attention for Afghanistan, a country that may well belong to Central Asia in the long run and is a neighbour of three OSCE participating States (Tajikistan, Turkmenistan, and Uzbekistan). Both ideas were timely, not least because the scheduled withdrawal of foreign troops from Afghanistan, or their massive numerical reduction, may significantly increase the risk posed to the three neighbours (and others).

Regional matters were understandably high on the Chairmanship agenda, as that is where Kazakhstan promised to make a difference. Simultaneously, Kazakhstan found itself in the delicate situation of having to define its relationship to the region. While it was willing to demonstrate its ability to take on a regional leadership role, it did not want to be absorbed into the region and regarded as one of “those”. Astana needed to differentiate itself from the other Central Asian states by stressing its own otherness, but without separating itself from the region. This was, beyond doubt, a very difficult act to pull off. Kazakhstan has always claimed to be different from the rest of Central Asia, and not without reason. As Dariga Nazarbayeva put it: “Geographically, Kazakhstan borders on Central Asia, but it is not a Central Asian country. Ours is an Eurasian state strongly influenced by Europe and Western values. Contrary to what certain politicians and journalists assert, we are not another *-stan*. Saudi Arabia is not our historical landmark: we look to Norway, South Korea, and Singapore.”¹⁵ Consequently, the traditional differentiation between “*Srednaya Azia*” (Middle Asia) and Kazakhstan may well return, replacing the use of “*Tsentralnaya Azia*” (Central Asia), of which Kazakhstan is considered a part. It is a fact, however, that it is not only Kazakhstan that is attempting to “flee” from Central Asia. Turkmenistan, the other main hydrocarbon exporter in the region, occasionally identifies itself

Zellner, The 2010 Astana Summit: An Initial Assessment, both in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2010*, Baden-Baden, 2011, pp. 31-34 and 23-30, respectively.

14 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, section 2, at: <http://www.osce.org/mc/74985>.

15 Dariga Nazarbayeva, *Spetsifika i Perspektivy Politicheskovo Razvitiya Kazakhstana* [Peculiarity and Prospects of Kazakhstan’s Political Development], 3 December 2003, at: <http://www.iimp.kz/Lists/articles/DispForm.aspx?ID=766> (author’s translation; emphasis added).

as a “Caspian state”, and is thus another prosperous country that is attempting to “vacate” Central Asia, leaving the region to its backwardness.

Despite Uzbekistan’s claims, Kazakhstan is beyond doubt the most important player in the region. It represents more than two-thirds of Central Asian territory and GDP, has a large natural resource base, particularly in hydrocarbons, and is the only state with a somewhat acceptable governance structure. Uzbekistan has claimed a leadership role on strategic grounds, but has none of the above features except for a large population base.

Chairmanship countries usually hope that events will not interfere with their plans during their term. It is seldom the case, however, that nothing major happens in Europe. The challenge for Kazakhstan came in its near neighbourhood in the form of Kyrgyzstan’s second regime change and the subsequent ethnic clashes in the south of the country. Kazakhstan thus faced a crisis in the region with which it was most familiar. This was certainly an advantage that should be appreciated. Bearing in mind how little familiarity there is with Central Asia in Europe as a whole, this contrasts strongly with how one can only imagine events may have unfolded had the Chairmanship been held by a small European state with no presence and expertise in the region. In dealing with this crisis, Kazakhstan very much had “home advantage”. When events got out of hand in Bishkek in April, when the clashes resulted in more than 80 casualties, Astana provided the necessary “technical assistance”. Kazakhstan airlifted the ousted Kyrgyz president, Kurmanbek Bakiyev, out of the south of the country and assisted him in travelling on to his new permanent home in Minsk. He was actually “invited for talks” by the president of Kazakhstan. Bakiyev agreed to give up power on the condition that his personal safety was guaranteed. In fact, Kazakhstan would have done the same in a national capacity, as it had helped the previous Kyrgyz president, Askar Akayev, to depart from Bishkek and travel to Russia five years earlier. Though Kazakhstan’s role in the events entailed a number of risks, on the whole Astana did precisely what it had to – whether Chairperson of the OSCE or not.

The situation was far more complex for Astana thereafter, and Kazakhstan’s record became more mixed. The new leadership of Kyrgyzstan had difficulties establishing itself, and Kazakhstan played an ambiguous role in its efforts. Kazakh diplomacy was very supportive of the new Kyrgyz leadership, and consistently announced in public that Astana “trusts the wisdom of the Kyrgyz leadership”. Less diplomatic language was possibly used behind closed doors. What may have mattered more than words was actions in the field. Acting in its national capacity, and notwithstanding its Chairmanship role, Kazakhstan took the following steps: 1. It closed the border right after the 7 April events in Bishkek and did not reopen it until 20 May. Whether there was a need to keep the border closed for such an extensive period remains open to doubt, particularly since President Nazarbayev and Rosa Otunbayeva, then acting prime minister, later president, allegedly already

agreed on the telephone on 4 May to reopen the border. The closure was particularly unhelpful, since most of Kyrgyzstan's northbound exports usually pass through Kazakhstan. Furthermore, it exacerbated the humanitarian situation by shutting out both Kyrgyz workers and migrant traders from the Kazakh market. 2. President Nazarbayev was not ready to receive Otunbayeva until she was actually sworn into office. If nowhere else, here Astana's two roles definitely collided. While reservations of this kind are normally respected in international diplomacy, the refusal was inappropriate coming from the state that held the OSCE Chairmanship and was tasked with contributing to mitigating the internal conflict. 3. Kazakhstan later made an extra-budgetary contribution to help with Kyrgyzstan's recovery. It is open to question whether this could compensate for the severe road transit-related losses caused by the closure of the border with Kyrgyzstan for 43 days.

The next conflict arose with the outbreak of ethnic clashes in June in the south of Kyrgyzstan. The "ethnic cleansing" killed around 470 people, three-quarters of them Uzbeks. As a consequence, approximately 400,000 people fled towards the Uzbek border in June 2010, and 100,000 of them eventually made it to Uzbekistan. They were overwhelmingly, though not exclusively, of Uzbek ethnicity. The leadership of Uzbekistan ordered the border to be opened, and three days later the flow of asylum seekers reversed. The conflict was not resolved, and the OSCE's attempt to establish a Police Advisory Group was effectively blocked by local forces. That said more about power relations inside Kyrgyzstan than about the capacity of the OSCE Chairmanship to manage the crisis and contribute to post-conflict reconciliation.

It would not be very objective to say that it was sheer luck that we got away without a far more severe internal crisis in June 2010 – one that could easily have taken on increasingly international proportions. However, a closer look would reduce the importance we attribute to coincidence. The Uzbek leadership basically had no choice but to open the border with Kyrgyzstan. If this had not been done, it could have caused an internal ethnic conflict of unpredictable magnitude in Kyrgyzstan. This was the last thing that Uzbekistan's President Islam Karimov, who is not particularly well regarded in Europe for his country's human rights record, needed. When, as a consequence, a hundred thousand people arrived on Uzbek territory it was Uzbekistan's natural instinct to get rid of them as soon as possible. Here, certain personal experiences of President Karimov came into play. The president, who has experience of managing internal conflict effectively – if not always peacefully – wanted to avoid instability in the Ferghana Valley, where he had already faced challenges, both in the 1990s, when angry demonstrators protested against him, and also in 2005, when he escaped serious trouble over Andijan partly because people involved in the local conflict escaped to Kyrgyzstan. The flight, in turn, of Uzbek refugees from Kyrgyzstan helped to end the acute phase of the conflict. Hence, in order to guarantee that Uzbekistan could preserve its stability President Karimov had to "re-export" the

problem, or at least the unpredictability, into Kyrgyzstan. This is what happened, and the process of reconciliation in the south of the country is still slow and difficult. Where there was some good fortune was in the following: 1. the Uzbek leadership's desire – born from experience – to avoid instability and give priority to conflict avoidance; 2. Uzbekistan and its president's specific and genuine lack of interest in entering into a conflict with Kyrgyzstan while desiring to further improve its tarnished international image.

The Kazakh and Uzbek presidents have very different memories of how the crisis was managed by the OSCE. According to Islam Karimov, "the organization failed to prevent the conflict", whereas, according to President Nazarbayev, "Kazakhstan has tried to use all available OSCE instruments to prevent the escalation of the conflict".¹⁶ Interestingly, the two statements are not mutually exclusive. Indeed, Kazakhstan (together with some other states) did try to prevent the conflict from escalating and spreading from Kyrgyzstan. Although this did not succeed, one has to bear in mind how difficult it was to address effectively a crisis that was evolving rapidly and with a degree of unpredictability. The ethnic cleansing and inter-ethnic clashes reached a level that resulted in massive population movement so rapidly that no diplomatic means could be used. This, however, indicated that the OSCE, similarly to many other institutions, has difficulty in effectively intervening in a fast-evolving acute crisis, just as it does in protracted conflicts. Yet this disappointment is not due to any lapse on Kazakhstan's part.

The Kazakh Chairmanship's effort to fulfil its promise of putting Central Asia on the map took a rather strange course. Regrettably, the Kyrgyz crisis and its spillover to Uzbekistan raised the profile of the region more than Kazakhstan's sincere effort to portray itself – and by extension the region as a whole – in the best light possible. The old rivalry between Uzbekistan and Kazakhstan also influenced the OSCE. President Karimov stayed away from the Astana Summit, though the Uzbek foreign minister was there to "spoil" Kazakhstan's party. Last but not least, Uzbekistan also insisted that the OSCE should not engage with Afghanistan. This was again partly linked to the Kazakh Chairmanship. Even more important was Uzbekistan's proposal to establish a multilateral framework (6+3) in which Tashkent would have greater relevance than in the OSCE, an organization not greatly appreciated in Tashkent. Nevertheless, Kazakhstan contributed to putting Afghanistan on the OSCE agenda more than ever, expressing its support when it declared: "We have begun implementing President Nursultan Nazarbayev's initiative for an educational programme to train Afghan young people at higher and vocational educational institutions in Kazakhstan. The first 200

16 Both cited by Erica Marat, OSCE Summit Highlights Disagreements between Astana and Tashkent, in: *Eurasia Daily Monitor*, 2 December 2010, at: [http://www.jamestown.org/programs/edm/single/?tx_ttnews\[tt_news\]=37235&tx_ttnews\[backPid\]=27&cHash=8cd4c7e593](http://www.jamestown.org/programs/edm/single/?tx_ttnews[tt_news]=37235&tx_ttnews[backPid]=27&cHash=8cd4c7e593).

students will take up their studies this year. Kazakhstan has allocated 50 million US dollars for these purposes.”¹⁷

It is clear from the above that Kazakhstan’s Chairmanship could not change the course of the OSCE, and its regional efforts could at best be regarded as partly successful. None of the achievements in either area could be fully attributed to Kazakh efforts. In fact, this outcome was largely due to the fact that the OSCE, in accordance with the will of its participating States, held out against rejuvenation for quite a long time. There was also a certain faction opposed to Kazakhstan’s standing out as a regional leader.

Thus, it still remains to determine what the Kazakh Chairmanship has achieved for the country’s own interests in terms of its international standing and the internal political situation. These two are not unrelated. Kazakhstan has demonstrated above all that it is able to conduct a responsible task of this kind. It had the vision, the determination, and the resources to carry it out effectively. It did not run a worse Chairmanship than any of its predecessors.¹⁸ With its involvement in the management of the Kyrgyz crisis, particularly in April 2010, Kazakhstan demonstrated the advantage of having a state in charge that was familiar with the reality on the ground. By convening the Astana Summit, it placed the OSCE in the spotlight for a brief moment. At the same time, Astana also put itself on the map, thus serving its self-interest.

Kazakhstan has developed rapidly, though unevenly. Economically, it benefits from a wealth of natural resources, which makes many things easier. Prosperity makes governance less troublesome, certainly in terms of resource allocation. Political dissatisfaction can be mitigated by prosperity, and the level of dissatisfaction has remained controllable. The correlative of this, however, is that states in such a situation, including Kazakhstan, can delay reform, including political liberalization. In fact, Kazakhstan has projected the image of a country that is measuredly authoritarian and has not felt the need to overreact in order to guarantee domestic stability. The expectations of the OSCE community towards Kazakhstan in terms of democracy and respect for human rights have been mitigated by paying attention to a number of other problems and, just as importantly, by the quest for domestic and regional stability. In sum, while Kazakhstan was fortunate not to expose itself to a worsening human rights situation during the Chairmanship, there was no noticeable improvement in its record. This could lead to two conclusions: 1. Kazakhstan did not live up to the many promises it regularly made between 2003 and 2009 in preparation for the Chairmanship. This is disappointing. 2. The change of the human rights situation in a country is an organic process.

17 *Statement by Mr. Kanat Saudabayev, Chairman-in-Office of the OSCE and Secretary of State and Minister of Foreign Affairs of the Republic of Kazakhstan, at the International Conference on Afghanistan (Kabul, 20 July 2010)*, at: <http://www.kazakhstan-osce.org/content/statement-mr-kanat-saudabayev-chairman-office-osce-and-secretary-state-and-minister-foreign-0>.

18 More recently, between June 2011 and June 2012, Kazakhstan is chairing the Organisation of Islamic Cooperation (OIC) and is thus practising multilateral diplomacy from the driving seat once again.

The growth in respect for human rights can only be speeded up by external factors to a certain degree.

The Kazakh leadership was very well aware that there was only one OSCE participating State that could spoil the Kazakh Chairmanship by itself: the United States. No other country was in a position to do this on its own. The EU does not have the necessary unity, and, for others, Kazakhstan would have been an inappropriate target. The US was most demanding at the time when the Chairmanship was (belatedly) granted and had been instrumentally innovative in finding a stop-gap Chairmanship country (Greece), thereby delaying Kazakhstan's taking the helm. Against this backdrop, the Kazakh foreign minister appointed especially for the Chairmanship was an experienced professional with significant familiarity inside the Washington belt-way. Last but not least, shortly before the Astana Summit, when Kazakhstan was in the limelight, it announced its forthcoming participation in the International Security Assistance Force (ISAF) in Afghanistan. It appears that, with this, Kazakhstan wished to silence any possible US criticism of Astana's human rights record. This effort proved largely successful, and Kazakhstan oddly retreated from its Afghanistan commitment not much later.

For the Kazakh people, the Chairmanship did not matter much in the sense of changing their lives or Kazakh society. Yet for the "man in the street", it mattered in a symbolic sense. It contributed to the sense of national pride that was also being fostered by the leadership, for instance, in its emphasis on the Summit. Moreover, it did matter for the growing maturity and gradual emancipation of the Kazakh political establishment. In sum, Kazakhstan has contributed very effectively to the symbolic affirmation of its desired international profile and to national consolidation through political symbolism.

Conclusions

The rotating Chairmanship of the OSCE fulfils more of a facilitator function than anything else. Hence, it is unfounded to assume that a Chairmanship country could change the course of the Organization on its own. That's why taking the Chairmanship is to some extent a leap in the dark. When assessing the Kazakh Chairmanship, it is better to put the question differently, and ask whether Kazakhstan has achieved the maximum that could be achieved under the given conditions. There are those who remain dissatisfied for one of two reasons (or for both): 1. The OSCE has not become a more vibrant organization. 2. Kazakhstan has not become a democracy under the rule of law. These reservations may be well founded. However, nobody with a clear mind could have expected either of those extreme expectations to be fulfilled. I do not find it particularly persuasive to measure the performance of the Kazakh Chairmanship in such terms.

If we change the level of analysis, there is every reason to conclude that Kazakhstan ran a Chairmanship that was no worse than those of its predecessors. It made a unique contribution to the OSCE by convening the first Summit Meeting for eleven years and managed the Kyrgyz crisis of 2010 to the best of its ability. Astana did not resolve its major regional rivalry but successfully managed it so that it would not interfere much with the Chairmanship. Kazakhstan skilfully manipulated its potentially difficult partner so that it could not interfere with the former's dearest objective: presenting itself (and, to some extent, Central Asia as a whole) in a positive light, and, hence, positioning Kazakhstan internationally for the future. Above all, Kazakhstan has strengthened its own international and internal identity and used the Chairmanship for identity politics. It stressed its "Eurasianness" without giving priority to one geographical dimension or the other. It also contributed to its image as a state that can persuade partners to follow it and a country that can perform in an international leadership position. Domestically, the image it has generated has contributed to Kazakh national pride and may be regarded as an aspect of nation-building. In sum, Kazakhstan had a unique Chairmanship that may have been superficially reminiscent of many earlier ones in terms of what was achieved, but was very different in terms of its subsidiary effects.

The Corfu Process – What Was It All About?

The Corfu Process was a cross-dimensional dialogue on European security involving all OSCE participating States that took place between the informal Corfu foreign ministers' meeting in June 2009 and the preparations for the Astana Summit in December 2010. I was directly involved as British Ambassador to the OSCE at the time, as Chairman of the Forum for Security Cooperation (FSC) from September to December 2009, and as a Corfu Co-ordinator. So I was not an impartial bystander, and my impressions of the overall Corfu Process, which are my own and do not represent official British government policy, are no doubt skewed by the role I played.

The need for a dialogue on the future of European security had become increasingly apparent in the decade before the Corfu Process got under way. The Istanbul Summit of 1999 was never all it was cracked up to be. The Charter for European Security agreed there lacked substance. The adapted CFE Treaty (ACFE), which was also signed there, took account of the realities following the dissolution of the Warsaw Pact but was never ratified by the NATO countries on the grounds that Russia had not implemented its "Istanbul commitments" to withdraw its troops from Moldova (Transnistria) and Georgia. Under President Vladimir Putin, Russia, supported by a number of CIS states, diverged from the EU and NATO countries in the OSCE on a range of issues related to the OSCE commitments. In 2003 and 2004, OSCE/ODIHR highlighted election rigging in Georgia and Ukraine, which Russia blamed for the "colour revolutions" that then took place in those countries. Also in 2003, OSCE/ODIHR criticized the conduct of the Duma elections. This prompted Russia's campaign to codify the way ODIHR carried out election observation and more generally to "reform" the OSCE. In 2007 Russia effectively prevented ODIHR from observing the Duma elections, and in 2008 it did the same thing with the presidential elections. On the hard security side, Russia finally "suspended" its participation in the original CFE Treaty in 2007.

Nevertheless, no-one could have predicted the blow to mutual trust within the OSCE space that was delivered by the Georgia conflict of August 2008. Regardless of the long-term presence of OSCE monitors in Georgia and its breakaway territory of South Ossetia, Georgia bombarded the South Ossetian capital, Tskhinvali, and Russia invaded South Ossetia and the other Georgian breakaway territory of Abkhazia. Despite the brokering of a ceasefire by President Nicolas Sarkozy in his capacity as President of the Council of the European Union, Russia had recognized the independence of the two breakaway territories within a month. The OSCE monitors never returned to Georgia/South Ossetia, even though the Finnish and Greek OSCE Chairmen-

ships expended enormous energy in trying to come up with a status-neutral formula. The UN Mission in Georgia/Abkhazia (UNOMIG) had to leave when Russia blocked the extension of its mandate. An EU Monitoring Mission (EUMM) was established but in practice this operated only on the Georgian side of the line.

It was the breakdown in trust over the Georgia crisis that gave impetus to what became the Corfu Process. In the autumn of 2008, Russia repeatedly argued that the failures over Georgia were evidence for its hypothesis that the European security architecture was broken. The EU and NATO countries rejected this, but most (including the UK) recognized that if Russia felt uncomfortable with the current architecture of European security, it was reasonable to have a dialogue on the subject. This led to the private foreign ministers' lunch that was the centrepiece of the Helsinki OSCE Ministerial in December 2008. Echoing the proposal put forward in June 2008 by President Dmitry Medvedev, Russian Foreign Minister Sergei Lavrov argued that 20 years after the end of the Cold War there was no proper European security system – what was needed was a legally binding European security treaty enshrining the non-use of force and equal security in the Euro-Atlantic space. He supported the French proposal for an OSCE Summit where these issues could be thrashed out. British Foreign Secretary David Miliband said that he was happy to brainstorm ideas but we had to build on the institutions we already had.

Among the assembled foreign ministers, there was widespread support for the idea that any dialogue on the future of European security must not undermine NATO or the EU. Views on the desirability of a Summit were mixed. OSCE Chairman-in-Office Alexander Stubb identified eight points in his concluding remarks:

- The OSCE was the right place for this discussion.
- No-one had objected to new ideas on European security.
- At this stage there were more questions than answers.
- Current institutions worked well – including the EU, NATO, and the OSCE, which were unique in terms of the commitments undertaken by their members.
- More substance was needed to take this forward.
- Ideas should cover all three security dimensions (politico-military, economic/environmental, and human) in a comprehensive approach including hard and soft security.
- Before inventing a new system we needed to solve existing unresolved/“frozen” conflicts.
- We needed to define the objectives we were seeking to attain before holding a full Summit – this area might be worth developing at a meeting of OSCE foreign ministers to kick off the process.

The last of these provided the pointer for the Corfu Informal Ministerial Meeting under the 2009 Greek Chairmanship. In fact, during the early part of 2009 there were several discussions within the OSCE on the future of European security, some with senior-level input coming from Russia. Deputy Foreign Minister Alexander Grushko, while acknowledging that security was multi-dimensional, argued on several occasions that the main gaps were in the politico-military dimension of the OSCE. Human-dimension issues could be discussed elsewhere, e.g. at the Council of Europe. European security needed “rebooting” through a new treaty. We needed a “Helsinki plus”, i.e. practical plans to resolve conflict with fresh ideas. In a swipe at the legacy of the Istanbul Commitments, Grushko said he could not understand why the big picture of European security was being held hostage to an ammunition dump in Transdniestria and some pensioners in a defunct airbase in Abkhazia. But throughout the discussions, Grushko and other Russian speakers stressed the OSCE principles of the “indivisibility of security” and that no state should strengthen its security at the expense of the security of other states. This emphasis, widely regarded as code for continued Russian hostility to NATO enlargement, reinforced concerns in NATO (and by extension in the EU) that the real purpose of Russia’s idea of a legally binding security treaty was to undermine and divide NATO.

There was also considerable suspicion of Russian proposals to reactivate the 1999 Platform for Co-operative Security. This was ostensibly an attempt to reassure the Western countries that the existing institutions, notably NATO and the EU, would have their role respected in the future European security architecture – albeit alongside Russia’s favoured bodies, the CIS and the Collective Security Treaty Organization (CSTO). Many in NATO saw this as a device to establish equivalence between NATO and the CSTO. These suspicions prompted close co-ordination among the NATO and EU countries in delivering a common response to the Russian ideas. In essence, this was: (a) acceptance of a dialogue on the future of European security as long as this was anchored in the OSCE; (b) the dialogue must respect the existing security institutions and the transatlantic link; (c) it must respect existing OSCE commitments and the autonomy of the OSCE institutions (the Office for Democratic Institutions and Human Rights/ODIHR, the High Commissioner on National Minorities/HCNM, and the Representative on Freedom of the Media/RFOM); (d) it must cover all three OSCE dimensions, and (e) it must encompass the protracted conflicts, including Georgia.

The timing of the Corfu Informal Ministerial fitted in with the Obama administration’s objective of a “reset” with Russia. The meeting was given added lustre by the fact that it took place back-to-back with the first meeting of the NATO-Russia Council after the Georgia Crisis. This ensured a high turnout, including the British Foreign Secretary Miliband and the Russian Foreign Minister Lavrov, although US Secretary of State Hillary Clinton was unable to attend at the last minute because of an elbow injury.

The discussion itself was along what were already well-established lines. There was considerable debate between a group led by Lavrov who wanted the dialogue to focus on security *in* Europe, and a group of EU and NATO foreign ministers led by Bernard Kouchner of France, who insisted on dealing with issues such as Afghanistan and international terrorism which lay outside the traditional OSCE framework but affected the security *of* Europe. In her closing “perception remarks”, Chairperson Dora Bakoyannis launched the Corfu Process. Its aims were to restore confidence and trust among the 56 participating States and to strengthen their capacity to address the challenges to security *in* Europe and to the security *of* Europe.

The Corfu Process proper took the form of regular informal open-ended meetings of ambassadors in Vienna backed up by relevant visitors from capital cities. The Chairs of the FSC and the three Committees (Security, Economic, and Human Dimension) were also included in the process. Russia rightly took steps to ensure that the informal Corfu Process did not detract from the work of the FSC as a decision-making body of the OSCE. In the first phase, the task of the Corfu meetings was supposedly to develop a common understanding of the main threats to European security. In practice, though, well-rehearsed positions were constantly repeated. These discussions at least pinpointed the need for greater effort with regard to the protracted conflicts, the restoration of CFE/ACFE, the promotion of democracy and human rights – including those relating to national minorities – and “new threats”, including those emanating from Afghanistan. At an ambassadorial retreat in Krems it was agreed to work towards a Ministerial Declaration that would encapsulate the broad political message of the Corfu Process and a Ministerial Decision to drive the process forward.

The Athens Ministerial in December 2009 was a watershed in the Corfu Process. On the eve of the meeting, Russia circulated the text of its long-awaited draft European Security Treaty (EST) around the capital cities. At the Ministerial, Lavrov referred only briefly to the EST, linking it with the original Medvedev initiative but not with the Corfu Process. Nearly all EU and NATO foreign ministers who spoke on the subject said that the elements in the treaty proposal should be examined within the OSCE in the context of the Corfu Process: Without Corfu there was no place to discuss the draft treaty.

At the Ministerial, agreement was reached without any significant difficulty on a declaration which reconfirmed the vision of a free, democratic, and more integrated OSCE area from Vancouver to Vladivostok, one that was free of dividing lines and zones with different levels of security. It set out three guidelines for the future of the Corfu dialogue: (a) adherence to the concept of comprehensive, co-operative, and indivisible security; (b) compliance with OSCE commitments in all three dimensions; and (c) determination to strengthen co-operation in the OSCE area and to enhance the effectiveness of the OSCE. Kazakh Foreign Minister Kanat Saudabayev spent the Athens

Ministerial banging the drum for a Summit during the Kazakh Chairmanship: As a consequence, a carefully calibrated paragraph was added to the Ministerial Declaration “noting with interest” Kazakhstan’s proposal to hold an OSCE Summit and pointing out that it would require adequate preparation in terms of substance and modalities.

However, Russia, supported by Belarus and Turkmenistan, tried to emasculate the draft decision which sought to define the issues on which the Corfu Process should focus. At the Ministerial lunch (which I attended standing in for David Miliband), Lavrov welcomed the way in which the Greeks had directed the Corfu Process as an informal open discussion without a preset agenda. But while he accepted that it was vital to adopt a declaration, he failed to grasp why an informal process required a formal tasking through a decision. This implied that we were trying to institutionalize and restrict the process, in particular by creating a select list of subjects to be dealt with. Virtually all the other ministers who intervened supported Chairperson-in-Office George Papandreou on the need for a decision to define a Corfu Process workplan. In the end, Russia grudgingly went along with a decision which, while leaving it open to states to raise other topics, defined the main issues for the Corfu Process as:

- Implementation of all OSCE norms, principles, and commitments.
- The role of the OSCE in early warning, conflict prevention and resolution, crisis management, and post-conflict rehabilitation.
- The role of the arms-control and confidence- and security-building regimes in building trust in the evolving security environment.
- Transnational and multidimensional threats and challenges.
- Economic and environmental challenges.
- Human rights and fundamental freedoms as well as democracy and the rule of law.
- Enhancing the OSCE’s effectiveness.
- Interaction with other organizations and institutions on the basis of the 1999 Platform for Co-operative Security.

The Ministerial Decision also provided for an interim report that the OSCE Chairmanship was requested to submit to a joint reinforced meeting of the FSC and the Permanent Council (PC) in June 2010. A separate omnibus FSC decision gave that body a mandate that included proper discussions on the Vienna Document and ensured that the FSC and its politico-military expertise remained fully engaged with the Corfu Process.

The Kazakh OSCE Chairmanship, which took over on 1 January 2010, regarded the Corfu Process as a key test and a way to lever President Nursultan Nazarbayev’s objective of holding an OSCE Summit. The Kazakh ambassador appointed ambassadors, all except one from EU/NATO coun-

tries, as “Corfu Co-Ordinators” to drive forward specific areas (curiously known as “ticks”). These were:

- The role of the OSCE in early warning, conflict prevention and resolution, crisis management, and post-conflict rehabilitation: György Molnár, Hungary.
- Transnational and multidimensional threats and challenges: Heiner Horsten, Germany.
- General questions of Euro-Atlantic security: François Alabrune, France.
- Strengthening the cross-dimensional approach to security: Ian Cliff, UK.
- Enhancing the OSCE’s effectiveness, including a review of recommendations in the Final Report by the Panel of Eminent Persons and relevant proposals by participating States: Cornel Feruță, Romania.
- Implementation of all OSCE norms, principles, and commitments: Eoin O’Leary, Ireland.
- Interaction with other organizations and institutions on the basis of the 1999 Platform for Co-operative Security: Renatas Norkus, Lithuania.
- Economic and environmental challenges: Alyaksandr Sychov, Belarus.
- Role of the arms control and confidence- and security-building regimes in building trust in the evolving security environment: Mara Marinaki, Greece.
- Human rights and fundamental freedoms, as well as democracy and the rule of law: Ana Martinho, Portugal.

There followed an intensive series of informal ambassadorial meetings at which a vast array of ideas aimed at reinvigorating the OSCE were discussed. Perhaps the most significant of these were:

- *Pre-positioned Consensus*
This was a US formulation designed to give the Chairmanship, the Conflict Prevention Centre (CPC), and the OSCE institutions greater flexibility to react in a crisis, e.g. by temporarily deploying teams of experts and observers while respecting Russia’s insistence on the principle of consensus. It was pointed out that the HCNM was entrusted with quiet diplomacy without having to revert to the PC at each step. Although there was widespread support for the idea that the OSCE was unable to respond quickly in a crisis because each step required the approval of all 56 participating states, Russia refused to accept that the Chairmanship and the OSCE institutions should be entrusted with greater freedom of manoeuvre. To a degree, the Kazakh Chairmanship’s handling of the concurrent Kyrgyzstan crisis showed what a determined Chairmanship could do under the existing rules.

- *Strengthening the Analytical Capacity of the CPC*
This was a Russian proposal which enjoyed general support. It was linked to the wider argument that the OSCE toolbox, including its various mechanisms, needed updating. Russia claimed that the Georgia and Kyrgyzstan crises stemmed in part from the failure of the CPC to recognize dangerous political trends and to report on them to the PC. A number of countries, including the UK, argued that the CPC did not need extra resources but should rather improve the integration of information received from the field missions, ODIHR, the HCNM, and the RFOM.
- *A Reinvigorated Approach to Resolving the Protracted Conflicts*
Many participating States continued to see resolution of the protracted conflicts as the main raison d'être of the OSCE. The failure to resolve the Transdniestria and Nagorno-Karabakh disputes after 20 years, coupled with the fact that Georgia had exploded, undermined the Organization's credibility. However, despite a lot of talk, the disputes remained locked into the existing processes and in the end it was the failure to agree specific language on each protracted conflict that scuppered the proposed Framework for Action at the Astana Summit.
- *Transnational Threats/Afghanistan*
The US and Russia agreed that an area where the OSCE could contribute more was in combating drugs, organized crime, and terrorism. The US linked this with a greater OSCE role in Afghanistan. A number of other NATO countries, including Canada and the UK, were keen to see an OSCE role in relation to border management in Afghanistan. Russia, however, insisted that OSCE border expertise could not be deployed inside Afghanistan, which was a Partner for Co-operation and not an OSCE participating State. This led to a greater focus on the potential for OSCE border training in Turkmenistan and especially Tajikistan, both OSCE participating States that bordered Afghanistan. The OSCE established a Border Management Staff College (BMSC) in Dushanbe, which has been attended by border police from Afghanistan as well as from participating States. The discussion also led to a focus on other areas where the OSCE could contribute to the fight against drugs trafficking and organized crime, although some participating States were concerned about overlapping with other international organizations.
- *Energy Security/Climate Change*
Throughout the Corfu Process, energy security – above all, the supply of gas from Russia to Germany and a large number of countries in Central Europe – was a key issue in European politics. Since the countries of production, transit, and consumption were all OSCE participating States, the argument was advanced that the OSCE economic and environmental dimension should have a role. However, this did not find much favour with the European Commission or Russia. A number of

countries also used the Corfu Process to press for an OSCE role in the security aspects of climate change – harking back to a discussion that had taken place at the time of the 2007 Madrid Ministerial. However, Russia insisted that climate change was an issue for the UN. In reality, the economic and environmental dimension remained on the fringes of the Corfu Process, despite widespread recognition that economic factors lay behind many of the conflicts and potential conflicts in the OSCE space. It was, however, agreed that the OSCE should do more to address water issues that were a source of tension in Central Asia, notably between Tajikistan and Uzbekistan.

- *Structured Follow-Up to ODIHR Recommendations*
Long-standing criticism of ODIHR by Russia, Belarus, and some countries in the Caucasus and Central Asia was firmly repudiated by the EU and NATO countries during the Corfu Process. There was nevertheless a recognition that there was often little systematic follow-up to the annual Human Dimension Implementation Meeting (HDIM) in Warsaw or even to recommendations by ODIHR election observation missions or by ODIHR experts on human rights. A rough consensus emerged during the Corfu Process that there should be more structured follow-up to ODIHR recommendations. Russia and its allies rejected any form of “peer review” on human rights in the OSCE. There was also considerable debate about the long-established right of NGOs to participate in human-dimension events. Some states argued in favour of vetting to ensure that only “competent and legal” NGOs took part, while others insisted that there could be no such limitations.
- *Updating the OSCE Commitments on Freedom of the Media*
The Corfu Process took place against the backdrop of growing concern about the murder of journalists in Russia and a number of other countries. The RFOM, Dunja Mijatović, did not mince her words about physical threats to journalists or a growing trend towards Government influence on the media across the OSCE space. This led to criticism of the RFOM akin to that of ODIHR. A number of countries responded that there were problems with the OSCE commitments on media freedom, but these derived from the need to update the commitments to take account of the development of electronic media and the internet since the early 1990s. This argument gradually gained a broad consensus, although precise mechanisms for updating the media commitments were not defined.
- *Making the Bolzano/Bozen Recommendations Politically Binding*
One issue on which there was consensus during the Corfu Process was endorsement of the work of the HCNM. During this period, High Commissioner Knut Vollebæk was actively involved in defusing tension between Slovakia and Hungary over the rights of the Hungarian minority in Slovakia and in starting to rebuild trust between Kyrgyzstan

and its Uzbek minority following the violence in the summer of 2010. Some of the Nordic countries – and indeed High Commissioner Vollebæk himself – suggested that it would strengthen the HCNM's hand if the recommendations launched at the 2008 Bolzano/Bozen conference on states' rights and responsibilities concerning minority rights abroad were adopted as politically binding commitments of the OSCE. There was vigorous debate about this in the Corfu Process, with many countries supporting the proposal outright and others asking why the Bolzano/Bozen Recommendations should be given a special status above other recommendations made by the HCNM. Although the HCNM explained that the Bolzano/Bozen Recommendations encompassed earlier recommendations on best practice with regard to minorities, there was nervousness in some quarters about turning these recommendations into fully-fledged OSCE political commitments.

- *Updating the Vienna Document 1999*

During the Corfu Process there were numerous calls for progress on the CFE Treaty. This did not involve all OSCE participating States directly and was the subject of a separate and ultimately unproductive process spearheaded on the NATO side by Victoria Nuland.

More central to the OSCE was the Vienna Document as one of a suite of military confidence-building measures (CBMs). Russia began calling for an update of the Vienna Document in 2007. Initially there were concerns on the part of many NATO countries that tinkering with the Vienna Document would lead to it being undermined and eventually going the same way as the CFE Treaty. At the Athens Ministerial, however, Russia was persuaded to drop its proposal for a stand-alone decision on a review of the Vienna Document in return for an omnibus decision on the work of the FSC. This enabled practical work on updating the Vienna Document to continue parallel to the Corfu Process.

- *Legal Personality*

Many countries argued during the Corfu Process that a fundamental weakness of the OSCE as a security organization was its lack of legal personality. Others suggested that this gave it added flexibility. A draft convention had already been agreed in 2007 as a result of hard graft in a working group headed by the Netherlands Ambassador, Ida van Veldhuizen-Rothenbuecher. However, Russia insisted that before this could be adopted there must be an OSCE Charter. The United States refused to accept a Charter. Despite numerous meetings on the margins of the Corfu Process, this deadlock was never resolved.

- *Freedom of Movement*

Russia argued that an OSCE commitment that was constantly ignored in the human dimension was that on freedom of movement. This should lead to steps towards visa liberalization throughout the OSCE space, especially in respect of access to the EU. This was strongly resisted by the EU.

During the first half of 2010, the Kazakh Chairmanship produced food-for-thought and perception papers on all the topics discussed in the Corfu Process. Groups of participating States produced their own food-for-thought papers. These provided the underpinning for the interim report to be submitted to the joint reinforced PC-FSC meeting by the end of June 2010. The report was then presented by the Chairmanship to the informal meeting of OSCE foreign ministers in Almaty in July 2010, where the overriding aim of the Chairmanship was to secure political endorsement of its proposal for an OSCE Summit. In reality, thanks to the divergent views thrown up in the Corfu Process, Kazakhstan – and probably Russia – would have gone along with a Summit that did little more than commemorate the 65th anniversary of the end of the Second World War, the 35th anniversary of the Helsinki Final Act and the 20th anniversary of the Charter of Paris. But this was unacceptable for the EU and NATO countries, who needed substance – particularly if their leaders were to be persuaded to travel to Astana in the depths of winter.

The working sessions of the informal Almaty Ministerial were opened by President Nazarbayev, who argued that political and economic upheavals in the Vancouver-Vladivostok space since 1999, together with the situation in Afghanistan following the London Conference, necessitated a Summit with substance. For the EU, Baroness Catherine Ashton specified that an OSCE Summit would make sense if it could mobilize political will, particularly on four priority areas: (a) strengthened OSCE conflict capabilities, starting with Kyrgyzstan and going on to the protracted conflicts including Georgia; (b) strengthened arms control; (c) improved follow-up of OSCE commitments, especially in the human dimension/freedom of the media; and (d) increased engagement in tackling transnational threats, including Afghanistan.

Although Lavrov argued that the EST was the only way to improve real security, the four EU themes gained wide support and formed the basis for the Chairmanship's eventual list of eight priorities to be discussed at a "Launching Summit" in Astana:

- Development of a single and indivisible area of security, free of dividing lines and zones with different security levels – a Euro-Atlantic and Eurasian Security Community.
- Reaffirmation by participating States of their full adherence to all OSCE commitments; strengthening implementation and follow-up (including updating as necessary).

- Strengthening the institutional basis of the OSCE and transforming it into a fully-fledged international organization.
- Strengthening the conventional arms control regimes and CSBMs (such as an updated Vienna Document 1999). Ensuring progress on restoring the viability of the CFE Treaty regime.
- Strengthening OSCE capabilities and its toolbox in all three dimensions with regard to early warning, conflict prevention and resolution, crisis management, and post-conflict rehabilitation. Joint work on ways to set the protracted conflicts on the path towards peaceful settlement.
- Ensuring that increased attention will be paid to transnational threats ranging from illicit trafficking in drugs, organized crime, cyber security, and trafficking in human beings to international terrorism and others. Enhancing OSCE involvement in Afghanistan.
- Countering post-crisis economic challenges, which entails adapting the OSCE Maastricht Strategy to current conditions.
- Strengthening the capacity of participating States to tackle challenges in the human dimension, ensuring tolerance and non-discrimination, freedom of the media, freedom of movement, and others. Enhancing the ability of the OSCE institutions to follow up on the implementation of recommendations made under their mandates.

At the end of the informal Almaty Ministerial there was an informal meeting of representatives of NATO, the EU, the Council of Europe, the CIS, and the CSTO chaired by the OSCE Secretary General on the basis of the 1999 Platform for Collective Security. However, this was largely symbolic and the discussions did not get beyond generalities.

Although consensus was reached in Almaty that a Summit should be held on the basis of the eight priorities specified above, many countries were distinctly unenthusiastic about this. There were continuing concerns that it was premature and would lack substance. These were countered by the idea that rather than delivering immediate outcomes, it would “launch” a process leading to subsequent decisions on the future of European security. In practice, the final phase of the Corfu Process was marked by a frenzied attempt to give substance to the Summit. Indeed, the Corfu ambassadorial meetings were reduced to informal meetings held to prepare for the Summit. Technically, there are supposed to be Review Conferences of all three dimensions before a Summit. However, it was decided to treat the Annual Security Review Conference (plus ongoing work in the FSC) and the regular Economic and Environmental Forum as reviews of the first two dimensions. The annual HDIM in Warsaw was turned into a review of the Human Dimension, with the two final days taking place in Astana just ahead of the Summit. In reality, the Corfu Process had itself been a massive review process, albeit an unwieldy and informal one.

This is not the place for a detailed account or analysis of the Astana Summit. But planning for the Summit ultimately encompassed a “headline idea”, a draft Summit Declaration and a draft Framework for Action. The Corfu Process provided the impetus for all of these. The Framework for Action ultimately collapsed, largely because of disagreements over the protracted conflicts and concerns in Washington that whatever was agreed would inevitably be too weak. The media – apart from those in Kazakhstan – tended to dismiss the Summit as a failure because of this. But the headline idea and elements of the Summit Declaration were important for the future of the OSCE.

The headline idea was that the OSCE should move to become a “security community” in which the use of force to resolve disputes anywhere in the Vancouver-Vladivostok space would become unthinkable. This had originally emerged from a session of the Corfu Process in which Russian Ambassador Anvar Azimov argued that the NATO and EU countries enjoyed a greater degree of security than the rest of the OSCE. French Ambassador Alabrune responded that an unspoken feature of these organizations was that over time, the use of force between their member states had become unthinkable. This degree of security should be extended to the rest of the OSCE, which should become a security community.

The Astana Commemorative Declaration reaffirmed the whole gamut of OSCE commitments, including those in the human dimension. It also gave explicit Summit endorsement to key language from the 1991 Moscow Document. It reinforced the principle that human rights and democracy in one OSCE State are “categorically and irreversibly” the concern of all. This undermined arguments about non-interference in internal affairs, although admittedly Belarus advanced such arguments only a few weeks after the Summit during a crackdown on protestors. The Declaration also gave solid and vital support to work on arms control and CSBMs, including updating the Vienna Document.

Conclusion

It did not always feel like it at the time, but the Corfu Process was one of the building blocks in a slow process of restoring a degree of trust between Russia and the EU/NATO countries after the Georgia crisis. It constituted part of the “reset” but was less tangible than, for example, the new START Treaty. But the Corfu Process also vividly demonstrated the limits of what could be achieved.

The OSCE Participating States:
Domestic Developments and Multilateral Commitment

The Abiding US Regional Engagement through the OSCE

The wave of pro-democracy protests in the Arab world reminds us inevitably of the last time dictatorships across an entire region suddenly shook and collapsed under the pressure of the people's desire for freedom. In 1989, Europe changed suddenly and immeasurably. Because of those events, and because of the wise policies in the years that followed, Europe, and the United States' relationship with Europe, has changed vastly in the past twenty years. In those days, the major preoccupation in the transatlantic relationship was the defence of Europe against the Soviet threat. Today, Europe is more democratic, largely unified, and is America's most important global partner. The US and Europe work together on an extraordinarily wide range of issues, although there is a common thread that runs through all our engagement with Europe: US-European co-operation remains essential to achieving our strategic objectives.

Our engagement with Europe begins with the idea that the United States faces a daunting international agenda and that our ability to deal with it is immeasurably increased by working with strong allies and partners. The OSCE's multidimensional approach to security is directly relevant to the transnational issues we face as we work together to build a democratic, prosperous, and secure transatlantic community. For this reason, the OSCE is one of the top three key European institutions with which the United States engages, alongside the EU and NATO. While NATO and EU enlargement have perhaps enjoyed more prominence in recent years, the OSCE nonetheless remains an essential venue for dialogue, co-operation and democracy promotion precisely with those countries that are not yet – or do not intend to become – members of these two other organizations. It serves as a testament to the United States' enduring commitment to the security of Europe and Eurasia.

The Helsinki Final Act states that promoting democracy and respect for human rights is fundamental to achieving sustainable security in Europe and Eurasia. It links security *among* states to respect for human rights *within* states. The OSCE's core values are among the reasons why this organization has a central role to play in President Barack Obama's and Secretary Hillary Clinton's foreign policy strategy.

The Helsinki Final Act brought to the forefront of international dialogue the revolutionary idea that true security demands democracy, human rights, and fundamental freedoms for individuals within states. Since 1975, this concept of comprehensive security has been a rallying cry for generations of reformers who have claimed their rights and left their mark on our history. And

in this globalized, interconnected world, comprehensive security also means that insecurity anywhere in the OSCE region is a challenge for all of us.

The OSCE is a critical guarantor of the Helsinki legacy, and it has a laudable body of work behind it supporting the rights, freedom, and peace enjoyed by so many. Over the years, it has itself also made significant contributions to furthering security in Europe. Indeed, the remarkable success of the Organization during the past 35 years is proof of what the participating States can achieve when we implement in good faith our commitments, which are based on shared values and objectives. Improvements in the lives of our citizens in the OSCE area are the result of years of hard work, conviction, and persistence.

Nevertheless, not only can more be done to strengthen European security – it must be done. We must do more to prevent the outbreak of conflict in Europe, such as occurred in 2008 in Georgia. We must do more to ensure an effective arms control system, and address twenty-first century threats to our security, such as terrorism, organized crime, and trafficking in drugs and human beings. We must do more to ensure sustainable economic growth and protect the environment. And, above all, we must protect the human rights and fundamental freedoms that are the foundation of liberty, justice, and peace. The fact that we have yet not achieved all that we had hoped is not a reason to lose faith in the OSCE. Building the democratic institutions necessary to provide security and long-term stability is a process. Such a process takes time, which does not lessen its importance or the necessity for sustained US engagement.

Under Secretary Clinton, we are devoting attention and resources to deepening relationships with our closest allies, who share common values and interests and seek to solve collective challenges with us. We are also assisting countries to build their own capacities, to address their own problems, and to move their people out of poverty and toward sustainable progress. This also means encouraging greater regional engagement and responsibility to address common problems and devise constructive regional roles. The US will continue to be an active transatlantic leader, strengthening regional institutions such as the OSCE, and deepening co-operation.

These institutions must be modernized where necessary, and we must ensure they have the tools at hand to fulfil the tasks with which we have entrusted them. It is also imperative that we uphold human rights and fundamental freedoms and defend the universal values that are enshrined in the UN Charter and the Helsinki Final Act. The US intends to lead by example, engaging directly with civil society in the countries with which we work. Public opinion and public passions matter even in authoritarian states. Technology has empowered people to speak up and demand a say in their own futures. So in every country with which we work, we will engage their publics, not only to make space for their contributions, but to send a message to their leaders about the accountability of states to their citizens.

There are a number of principles that guide the United States as we consider the future of European security and our role in shaping, strengthening, and sustaining it. They include:

First, a steadfast dedication to the sovereignty and territorial integrity of all states. The United States will remain vigilant in our efforts to oppose any attempt to undermine the right of all countries to pursue their own foreign policies, choose their own allies, and provide for their own defence.

Second, a recognition that security in Europe must be indivisible. The security of all states is intertwined. We must work together to enhance one another's security, in part by engaging with one another on new ideas and approaches. At the December 2010 Astana Summit, we reaffirmed the principles of the Helsinki Final Act and set out guidelines for the OSCE in the coming years to bring us closer to fulfilment of the vision of a Euro-Atlantic and Eurasian security community.

Third, a commitment to practising transparency in our dealings with Europe. To keep Europe safe, we must keep the channels of communication open by being forthright about our policies and approaches. The United States supports a more open exchange of military data, including visits to appropriate military sites. The Treaty on Conventional Armed Forces in Europe (CFE) also needs and is getting our attention – our goal should be a modern security framework that strengthens the principles of territorial integrity, non-first use of force, transparency, and the right of host countries to approve the stationing of troops in their territories.

And finally, a recognition that true security entails not only peaceful relations among states, but opportunities and rights for the individuals who live within them. Governments must promote and defend the human rights of their citizens so that all can live in dignity, free from fear of violence or oppression. The United States and Europe are acting together within the OSCE to expand opportunities, advance democracy, and protect human dignity. The United States seeks to partner with and strengthen institutions to broaden respect for human rights and fundamental freedoms, to end the scourge of human trafficking, and to reach out to marginalized groups.

It is on the basis of these principles that we are pursuing enhancements to European security. These principles will continue to guide our judgements on how and where to address security challenges. Overall, our goal is to use OSCE institutions and consultations to ensure the OSCE region leads the world in the implementation of best practices and multilateral co-operation in advancing democracy and countering twenty-first century threats.

Now, the work of the OSCE includes much unfinished business, on which it will need a concerted political effort by the US and Europe to achieve any kind of movement forward. There are unresolved conflicts in the regions of Transdniestria and Nagorno-Karabakh and in Georgia. While progress is often elusive in resolving these outstanding conflicts, the OSCE has continued to make a significant contribution to the progress that has been

realized. In the short term, we will work with the OSCE's Conflict Prevention Centre to develop a programme of confidence-building measures to promote transparency and trust and diminish the potential for a renewal of violence. In the longer term, we will work closely with our allies to develop a common strategy on Georgia that supports Georgian sovereignty and territorial integrity within its internationally recognized borders. Through dialogue in the 5+2 and Minsk Group negotiating formats, we will seek to advance diplomatic solutions to the conflicts in Transnistria and Nagorno-Karabakh, engaging OSCE field operations and institutions in identifying and implementing confidence-building measures and developing new approaches to the long-term resolution of these conflicts.

The events of August 2008 in Georgia served as a particularly sharp reminder that we cannot take security in Europe for granted or become complacent. Regrettably, the closure of the OSCE Mission to Georgia in 2009 seriously limited what contribution our Organization could make to address the root causes of mistrust and suspicion that fuelled the conflict. We must let this Organization do its job and restore a meaningful OSCE presence in Georgia.

And for that reason, among others, it is essential to strengthen the OSCE capabilities to address crises and conflicts, and to support reconstruction and reconciliation efforts following conflict. There is no other regional organization as well positioned to do so. All participating States agree that one of the biggest challenges in this area is to initiate an appropriate, timely OSCE response to developing crises. The Organization must be empowered to respond more effectively to crises within the OSCE itself. It is encouraging that our partners also recognize the need to improve on our existing capacity. We are committed to working with them to find a framework that will allow for timely, impartial OSCE reporting during emergencies like the one we have seen in Georgia.

The general framework for security in Europe is under considerable pressure. Russia's decision to suspend the implementation of its obligations under the CFE Treaty has undermined the most successful multilateral conventional arms agreement in the world. With the appointment of a Special Envoy for CFE, the United States has again assumed leadership, redefining the discussion on conventional arms to incorporate the continued vitality and relevance of the existing CFE Treaty and the other elements of the OSCE politico-military *acquis*. Using the implementation and monitoring mechanisms of the three conventional arms control arrangements associated with the OSCE – the Vienna Document of the Negotiations on Confidence- and Security-Building Measures, the CFE Treaty, and the Open Skies Treaty – we will work together with our partners to prevent a gradual re-militarization of the Euro-Atlantic region.

We can also contribute to stability across the OSCE region by expanding and updating the military-to-military confidence- and security-building

measures of the Vienna Document to bring it in step with the realities of today's security environment. We must modernize our arms control and confidence- and security-building instruments to enhance their relevance to the current political situation and improve reciprocal military transparency. Although specific elements of these arms control agreements are in need of updating, their core principles of transparency, openness, and confidence are no less important now than when they were agreed. Our commitment to their full implementation and further development is essential for enhancing stability and security within the OSCE area.

Along with these traditional threats to European security come a variety of new and unconventional transnational threats and challenges. These comprise such phenomena as global terrorism, including nuclear terrorism; cyberattacks; climate change; global criminal networks that traffic in weapons, drugs, and human beings; and the potential for disruptions to Europe's energy supply that could have severe economic and humanitarian consequences. Responding to these will require new means and methods of co-operation and collaboration across borders and disciplines. One of our priorities for this year is to build the capacity of participating States to develop an integrated approach to counter, individually and collectively, twenty-first century threats and challenges.

While the OSCE participating States have made much progress in the past 35 years, we all recognize that more must be done to ensure full respect for, and implementation of, our core principles and commitments, particularly in the human dimension. The US is profoundly concerned about the failure of a number of participating States to honour some of our most basic human dimension commitments. While the end of the Cold War marked the fall of the great divide down the middle of Europe, a new line has appeared further east, with some countries of the former Soviet Union adhering to a more vertical and autocratic model of governance. The events in early 2011 across North Africa and the Middle East have shown in dramatic fashion that governments founded on personalities, and not on accountable governments, are inherently fragile, with obvious security implications for all. As Secretary Clinton said in Astana, one of the defining characteristics of this Organization is its recognition that true security and stability requires not only security among states but democracy, human rights, and fundamental freedoms for individuals within states. We are proud that the Astana Commemorative Declaration reasserts the centrality of these fundamental principles.

We are nevertheless concerned by some of the negative trends we are seeing in the OSCE space that run counter to our pledges in Astana. Restrictions on independent media, NGOs, and political parties, and even more disturbing, verbal and physical attacks against journalists, are occurring far too often in the OSCE area. It is not enough to design a national human rights plan if it is not implemented. It is not enough for governments to empower only the civil society organizations they agree with, while crippling others

with legal restrictions and red tape. And it is not enough for a constitution to guarantee freedom of the press if, in reality, journalists are put under pressure and even assaulted or jailed for their work. In fact, it is not enough just to hold elections. The whole process must be free and fair, with the benefit of monitoring by the OSCE. And, once in office, elected officials must govern democratically and build strong institutions. Yes, the list is long, but we are not asking participating States to accept new principles or rights – only to honour their existing commitments.

The US supports the OSCE's efforts to empower civil society and free and independent media, and promote respect for human rights and fundamental freedoms. We believe that the OSCE should encourage greater dialogue between governments and individual citizens. We also believe that the OSCE should foster dialogue among civil societies and individual citizens across national, ethnic, religious, or other divides and promote efforts at reconciliation at the grassroots level. We welcome the participation of civil society in our efforts to improve security for our citizens. Empowering civil society is key to the future of this region and the OSCE as a whole.

At the same time, no measure, institution, or mechanism can take the place of the political will and leadership of each participating State to implement fully its OSCE commitments, work towards consensus, and enable the Organization to achieve the goals we have set out for it. Such political will was on display as the OSCE reacted to the clashes in 2010 between ethnic Kyrgyz and ethnic Uzbek communities in Kyrgyzstan. With the support of the participating States, the Kazakhstani Chairmanship took prompt action to mitigate the crisis, dispatching a special envoy to facilitate dialogue and address potential sources of instability. The participating States responded rapidly to the appeal for assistance by the Provisional Government by agreeing to launch the Community Security Initiative, which is designed to promote more trust between law enforcement agencies and ethnic communities. The continued involvement of OSCE institutions, particularly the Office for Democratic Institutions and Human Rights (ODIHR) and the High Commissioner on National Minorities (HCNM), will be essential in the OSCE's efforts to promote peace, democracy, and the rule of law in Kyrgyzstan.

The stability of all of the countries of Central Asia, and the OSCE region as a whole, is intertwined with that of Afghanistan, an OSCE Partner State with which participating States share nearly 2,000 km of borders. Instability in Afghanistan is dangerous not only for Central Asia, but for the OSCE region as a whole. Individual participating States have been important partners in helping the Afghan people rebuild their country and pursue comprehensive security. But the OSCE itself should play a greater role. The OSCE has valuable experience and resources in border security and promoting border practices that facilitate licit trade, and is uniquely situated to help maintain stability along the northern border of Afghanistan. It can also help to build up trade relations between Central Asia and Afghanistan, which will

contribute to stability inside, and co-operative relations among, these countries. ODIHR has helped other countries in transition to develop transparent electoral processes that promote accountability and defuse political confrontations during and after elections. The OSCE is capable of making a similar contribution in Central Asia and Afghanistan. OSCE expertise in empowering women, promoting tolerance, and supporting civil society also contributes to stability in participating States, and would be effective in Afghanistan as well.

Recent events in North Africa and the Middle East testify to the relevance and appeal of OSCE values beyond its geographical area, demonstrating how freedom and democracy are closely related to sustainable economic development and how they jointly contribute to creating more peaceful and secure societies. We believe the OSCE can make a positive contribution to this process of transition. Not only does the OSCE have a vast amount of expertise in managing democratic transitions, but the OSCE participating States have consistently manifested their willingness to share the OSCE's experience with the OSCE Partners for Co-operation. This willingness to share experience and provide assistance – not only to Afghanistan but also to the southern Mediterranean region – is comprehensive, encompassing topics in all three dimensions of security, including police reform, border security and management, good governance and anti-corruption, judicial reform, and elections. In order to be meaningful and effective, OSCE support would need to be tailored to the specific needs of the country concerned.

The OSCE agenda is ambitious, and has always been so. The OSCE's record on the promotion of democracy, human rights, and fundamental freedoms, together with its efforts in building civil society, is second to none. Overall, we need to use OSCE institutions and consultations to ensure that the OSCE region leads the world in the implementation of best practices and multilateral co-operation in advancing democracy and countering twenty-first century threats. We must work together to ensure that the OSCE has the tools and capabilities at hand to enable it to carry out the mandates we have given it. The Organization must remain true to its principles and commitments, while finding a way to apply them to new challenges.

In many ways, this means that the OSCE should focus on its historical strengths – serving as a vehicle for building confidence and trust, shining a light on violations of our common commitments, emphasizing the importance of a vibrant civil society to our mutual security, and promoting military transparency and predictability. Decades ago, the CSCE spoke up for the rights of Soviet dissidents who could not find a voice for themselves. Today, ODIHR supports those in OSCE participating States who wish to promote democratic values, human rights, and the rule of law. Although we can be proud of what we have achieved, much remains to be done to fulfil the promise of our Organization. The United States agreed to hold a Summit in Astana in 2010 precisely because we believe that the OSCE needs to be put

back onto the clear path laid out more than 20 years ago in the Charter of Paris, which set forth a framework for common action in all three dimensions essential to our security.

Although the participating States did not find agreement on a substantial action plan at the Summit as we would have hoped, the United States believes the participating States must continue our concerted efforts to address “unfinished business” in the OSCE region. As our Heads of State or Government declared more than 20 years ago, ensuring the security, dignity, and rights of each individual within our borders is the most important responsibility of government.

We all benefit when we deliver on the promise of the Organization’s principles. The implementation of Helsinki commitments is a road we have committed ourselves to travel together, not a destination. But it is a road that must be open to all people wherever they live. This has always been a process, one that requires adherence to founding principles and a continuing engagement to build upon them. We should all embrace the vision of Helsinki and apply it faithfully in this new century. The standards and promises of the OSCE have helped develop, and can continue to contribute to a freer, more prosperous, and more secure Europe and Eurasia. We owe it to our citizens to move beyond rhetoric to action.

Presidential Election in Belarus in 2010: The Winner Takes It All?

On 19 December 2010, a presidential election took place in Belarus. According to the Central Election Commission (CEC), the incumbent president Alyaksandr Lukashenka, who has been in power since 1994, was re-elected with 79.65 per cent of votes.¹ The three opposition candidates who received the largest percentages of votes after Lukashenka were Andrey Sannikau, Yaraslau Ramanchuk, and Ryhor Kostuseu with just 2.43, 1.98, and 1.97 per cent, respectively.² The result of the election disappointed the Western observers, who had hoped that the wind of change was blowing and that this time the election in Belarus would be fairer and more democratic. But instead of a democratic shift, the election was followed by extremely harsh repression.

This article takes a closer look at the presidential election and its aftermath. The first section presents the domestic and foreign policy situation before the election, explaining why the Western actors hoped for a more democratic electoral process. Section two presents the election *per se* and the developments that followed, and speculates on the possible reasons behind Lukashenka's harsh repression. The third section considers the closure of the OSCE Office in Minsk as one of the subsequent reactions of the Belarusian authorities to the elections. Section four deals with the international reactions to the election. The last section provides an overview of developments in and around Belarus in the first half 2011 and draws conclusions about the prospects of the Lukashenka regime. While President Lukashenka emerged as the winner from this election, this article shows that his regime is weaker and more vulnerable than ever before.³ It is primarily the geopolitical games around Belarus that help sustain his system.

Note: The author would like to thank Tatiana Biletskaya and Ina Shakhrai for their very helpful comments on this article. This contribution covers developments up to August 2011.

1 See *Cvedeniya o rezul'tatakh goslosovaniya po vyboram Prezidenta Respubliki Belarus' 19 dekabrya 2010 goda* [Results of the Belarusian Presidential Election of 19 December 2010] at the official website of the Central Election Commission (CEC) of the Republic of Belarus, at: <http://www.rec.gov.by/sites/default/files/pdf/Elections-PRB-sved21.pdf>.

2 See *ibid.*

3 While I realize that there are interest groups that stand behind Lukashenka, the current political regime in Belarus is strongly personalized and centralized. For more details see, e.g., Ethan S. Burger/Viktar Minchuk, Alyaksandr Lukashenka's Consolidation of Power, in: Joerg Forbrig/David R. Marples/Pavol Demeš (eds), *Prospects for Democracy in Belarus*, Washington, DC, 2006, pp. 29-36; Rainer Lindner, The Lukashenka Phenomenon, in: Margarita M. Balmaceda/James I. Clem/Lisbeth L. Tarlow (eds), *Independent Belarus: Domestic Determinants, Regional Dynamics, and Implications for the West*, Cambridge 2002, pp. 77-108; Grigory Ioffe, *Understanding Belarus and How Western Foreign Policy Misses the Mark*, New York 2008.

While all elections in Belarus since 1994, when Alyaksandr Lukashenka was first elected president, were characterised by unfair, undemocratic, and repressive practices, in 2010 there was some – futile and unrealistic – hope in the West that this time President Lukashenka would make a greater effort to conduct the election in a way that would reflect the OSCE commitments to a greater extent than before. There were several reasons for these illusions: negative domestic economic developments in Belarus; deteriorating relations between Belarus and the Russian Federation; and Lukashenka's demonstration of interest in rapprochement with the EU.

To start with, by 2010 the economic situation in Belarus had deteriorated. In 2007, Belarus's GDP growth was 8.6 per cent. By 2010 this figure had dropped to 3.8 per cent.⁴ Throughout the post-Soviet period, Belarus was a model of economic growth and stability in comparison to many former Soviet republics. While the latter were going through periods of painful reforms and instability and were seeking economic integration with Western markets, the secret of Belarus's so-called "economic miracle" was simple: The country was relying heavily on external subsidies – primarily Russia's cheap energy, but also Western loans and revenues from selling oil products to the West. The oil was bought from Russia at low prices and refined at Belarusian refineries. Instead of implementing difficult and socially painful long-term reforms, Lukashenka was investing the available financial resources in sectors such as agriculture, state-owned industries, and the public sector in general. In addition, a large enforcement apparatus (KGB, militia) was built up, on which the regime relies heavily. All these sectors, which were subsidized by the state, were unprofitable without reforms. These measures were aimed at securing Lukashenka public support in the election. As a result, the population in Belarus was paid salaries and pensions regularly while incomes fell and there were disruptions in social welfare payments in other Commonwealth of Independent States (CIS) countries.

Furthermore, in 2006, at the Third All-Belarusian Assembly, an unrealistic and politicized five-year social and economic development programme was adopted. On 30 December 2009, Lukashenka gave a "sacred" promise to continue to implement that plan: "Average wages must reach USD 500 within a year. This figure is sacred!"⁵ Nevertheless, analysts were warning that even though the overall economic situation seemed to be stable, it was gradually deteriorating.⁶ Thus, Lukashenka was continuing his short-sighted

4 See International Monetary Fund, Republic of Belarus, *Third Review Under the Stand-By Arrangement, and Request for Modification of Performance Criteria*, 11 December 2009, p. 18, at: <http://www.imf.org/external/pubs/ft/scr/2010/cr1031.pdf>.

5 Alyaksandr Lukashenka, cited in: Sergey Nikolyuk, Presidential Election: Sociology of Electoral Stability, in: Belarusian Institute for Strategic Studies (BISS), *Belarusian Yearbook 2010*, pp. 63-69, here: p. 66.

6 For more information on the development of Belarus's economic policy, see Patricia Brukoff, *The Belarusian Economy: Is It Sustainable?* In: Balmaceda/Clem/Tarlow (eds),

populist policies while the economy was in reality crying out for austerity measures and reforms.

In 2008, Belarus was hit by the global financial crisis. While the country was not as badly affected as some CIS countries, thanks to its relative economic isolation,⁷ its domestic economic situation did worsened. This was due firstly to a decrease in external demand, mostly from Russia and the EU, Belarus's main trading partners, which led to weaker export performance and consequently to the current account deficit; secondly to the reversal of foreign direct investment; and finally to limited access to financial markets.⁸ As a consequence, as Fyodor Zhakhov argues: "Since August 2010, the country's foreign trade deficit has expanded much faster than the year before. To make up for that gap, Belarus needs to borrow almost USD 1 billion from foreign sources on a monthly basis."⁹ In 2010, Belarus's total foreign debt rose to reach 28,512 million US dollars or 52.2 per cent of national GDP by 1 January 2011.¹⁰ Although some attempts at reform have been made in recent years, for example attempts at attracting foreign direct investment, they were mostly too small to have a real impact on the situation.¹¹

One more reason for Belarus's worsening economic situation was the deterioration in relations with the Russian Federation. Elena Korosteleva even goes as far as to argue that rather than by the negative impact of the global financial crisis, Belarus was mainly affected by the negative character of its relations with Russia and the latter's "pragmatization" of its policy towards Belarus.¹² This process started with the election of Vladimir Putin as president in 2000, but since 2006 in particular, the relationship between the two countries has become even more difficult.¹³ It was characterized by a

cited above (Note 3), pp. 109-121; Leonid Zlotnikov, The Belarusian "economic miracle" – illusions and reality, in: Sabine Fischer (ed.), *Back from the cold? The EU and Belarus in 2009*, Chaillot Paper No. 119, Paris 2009, pp. 65-79.

7 Cf. Elena Korosteleva, Belarusian Foreign Policy in a Time of Crisis, in: *Journal of Communist Studies and Transition Politics* 3-4/2011, pp. 566-586, here: pp. 567-568. For a comparative perspective on Belarus's economic indicators see also Irina Yermeyeva, *The Impact of the Global Financial Crisis on Belarusian Economy*, Electronic Publications of Pan-European Institute 23/2009, at: http://www.tse.fi/FI/yksikot/erillislaitokset/pei/Documents/Julkaisut/yermeyeva_economic_crisis_belarusian_economy_2309%20web.pdf.

8 Cf. Julia Korosteleva, The Global Recession and the Belarusian Economy: Revealing Cracks in the Model, in: *Journal of Communist Studies and Transition Politics* (3-4/2011), pp. 632-653, here: p. 633.

9 Fyodor Zhakhov, Everything for the Front, Everything for the Victory! Macroeconomics takes rest by the presidential election, in: *Belorusskaya Gazeta*, 8 November 2010, cited in: Vladimir Rovdo, Presidential Campaign, in: *Belarusian Yearbook 2010*, cited above (Note 5), pp. 52-62, here: p. 55.

10 Cf. Bitter Results of Belarusian "Authoritarian Modernization", 14 March 2011, in: *BelarusDigest*, at: <http://belarusdigest.com/2011/03/13/bitter-results-of-belarusian-authoritarian-modernization>.

11 Cf. Zlotnikov, cited above (Note 6), pp. 74-75.

12 Cf. Elena Korosteleva, cited above (Note 7), p. 568.

13 On the development of Russian-Belarusian relations, see Dmitri Trenin, Russia's Policy towards Belarus: A Tale of Two Presidents, in: Forbrig/Marples/Demeš (eds), cited above (Note 3); Anders Rudling, Belarus in the Lukashenka Era: National Identity and Relations

series of “micro-wars”, which also took place during the pre-election period in 2009-2010. Korosteleva classifies these conflicts in three groups: 1. gas- and oil-related conflicts;¹⁴ 2. transactional conflicts (e.g. “milk”, “sugar”, “machinery”, “electricity” “wars”); 3. political conflicts (e.g. Belarus’s non-recognition of Abkhazia and South Ossetia, non-cooperation within the framework of the Russian-led Collective Security Treaty Organization/ CSTO, and temporary resistance to the Single Economic Space/SES, a Russian-led political-economic integration initiative).¹⁵ She concludes that all these conflicts demonstrate the tense political relationship between the two partners and “a proactive role on Russia’s part in these conflicts, which it seems to imitate each time it requires Belarus to act on specific issues”.¹⁶

At the same time, Belarus often took provocative steps to demonstrate to Russia its independent and sovereign spirit and to the European Union (EU) its (temporary) preference for closer relations with the West. Thus, even though Russia, as the stronger partner, bears great responsibility for conflicts with its smaller, dependent neighbour, Belarus turned out to be a difficult, often unpredictable, and unreliable partner for Russia. Belarus, like some other post-Soviet countries, expects Russia to subsidize its economy while frequently offering Russia in return only short-term promises for its “subsidies”, which it does not fulfil. In addition, economic and political relations are closely interlinked in both countries, and many problems arise from this linkage and behind-the-scenes deals between the governments and interest groups.

In 2009-2010, relations between Russia and Belarus worsened to an unprecedented level. Lukashenka’s statements regarding Russian leaders President Dmitry Medvedev and Prime Minister Vladimir Putin were coloured with negative emotions and critical overtones and vice versa. Most specu-

with Russia, in: Oliver Schmidtke/Serhy Yekelchuk (eds), *Europe’s Last Frontier? Belarus, Moldova and Ukraine between Russia and the European Union*, New York 2008, pp. 55-77; Arkady Moshe, Avenue of Independence. Will Russian-Belarusian Relations Take the Ukrainian Path? In: *Russia in Global Affairs* 2/2010; Thomas Ambrosio, The Political Success of Russia-Belarus Relations: Insulating Minsk from a Color Revolution, in: *Demokratizatsiya* 3/2006, pp. 407-434; Patricia Brukoff, Russia’s Varied Roles in Belarus, in: Balmaceda/Clem/Tarlow (eds), cited above (Note 3), pp. 222-231; Nelly Bekus, *Struggle over identity: the official and the alternative “Belarusianness”*, Budapest 2010.

- 14 Belarus depends on Russia for 100 per cent of its gas and 92 per cent of its oil. Cf. Margarita M. Balmaceda, At a crossroads: the Belarusian-Russian energy-political model in crisis, in: Fischer (ed.), cited above (Note 6), pp. 79-91, here: p. 80. Twenty per cent of natural gas (45 billion cubic metres) and 30 per cent of oil (80 million tonnes) are transported via Belarus’s territory. Cf. Wojciech Kononczuk, *Difficult Ally: Belarus in Russia’s Foreign Policy*, CES Study No. 8, Warsaw, September 2008. See also, on energy relations between Russia and Belarus, Margarita M. Balmaceda, Russian Energy Companies in the New Eastern Europe: the Cases of Ukraine and Belarus, in: Jeronim Perovic/Robert Ortung/Andreas Wenger (eds), *Russian Business Power: The Role of Russian Business in Foreign and Security Relations*, New York 2006, pp. 67-87; Katja Yafimava, *Post-Soviet Russian-Belarusian Relationships. The Role of Gas Transit Pipelines*, Stuttgart 2007.

- 15 Cf. Elena Korosteleva, cited above (Note 7), pp. 570-571.

- 16 Ibid., p. 574.

larly, Russia launched a large-scale mass media “war” against Lukashenka: “Kryostny Bat’ka” (also known as “Godbatska”), a four-part critical documentary about the Belarusian president, was shown on the Russian television channel NTV, and news reports covered developments in Belarus and Lukashenka’s behaviour in a very negative light. The Belarusian president, in turn, did not miss any opportunity to irritate and anger the Russian leaders. For instance, he gave President Mikheil Saakashvili of Georgia an interview opportunity on one of the Belarusian TV channels after the Russian-Georgian war, and continuously made very negative and provocative statements in relation to the Russian leadership.¹⁷

Under these conditions, Lukashenka started to show more of an interest in co-operating with the EU¹⁸ as a whole and with its individual member states, while the EU was showing greater readiness to offer the country some “carrots” in order to promote free elections in Belarus and thereby its democratization.

Relations between the EU and Lukashenka’s Belarus have been strained throughout the whole period of his presidency. The EU’s closer relations with Belarus are contingent upon the democratization of the country. However, greater democratization could potentially endanger Lukashenka’s re-election, his regime, and his power. As a result, the EU’s attempts to offer “carrots” to Belarus (more engagement, co-operation) were usually changed to “sticks” (e.g. sanctions after the non-free and non-democratic elections, first introduced in 1997) and again to “carrots”. At the same time, the EU continuously took steps to support civil society and the administrative, legal, and institutional reforms in the country.¹⁹ But the extent to which both “carrots” and “sticks” have had the desired effect, if any, is questionable.²⁰

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- 17 On this subject see, e.g., Vladimir Kravchenko, *Prevratnosti slavyanskoy lyubvi*. Dmitry Medvedev i Aleksandr Lukashenko obyasnili v chuvstvakh drug k drugu [The Controversies of a Slavic Love. Dmitry Medvedev and Aleksandr Lukashenko Spoke of Their Feelings for Each Other], in: *Zerkalo Nedeli* No. 37, 9 October 2010.
 - 18 On Belarus-EU relations see Fischer (ed.), cited above (Note 6); Forbrig/Marples/ Demeš (eds), cited above (Note 3); Tobias Hausotter, *Die Belarus-Politik der EU. Handlungsspielräume und Politikoptionen*, in: *Osteuropa* 7/2007, pp. 57-70; Ernst Piehl/Peter W. Schulze/Heinz Timmermann(eds), *Die offene Flanke der Europäischen Union. Russische Föderation, Belarus, Ukraine und Moldau*, Berlin 2005.
 - 19 See, for instance, *Country Strategy Paper/National Indicative Programme: Belarus 2005-2006*, Adopted by the European Commission on 28 May 2004; European Neighbourhood and Partnership Instrument: *Belarus Country Strategy Paper 2007-13 and National Indicative Programme 2007-2010*, 2006.
 - 20 For more information, see Giselle Bosse/Elena Korosteleva-Polglase, *Changing Belarus? The Limits of EU Governance in Eastern Europe and the Promise of Partnership*, in: *Co-operation and Conflict* 2/2009, pp. 143-165; Frank Schimmelfennig/Hanno Scholtz, *EU Democracy Promotion in the European Neighbourhood: Political Conditionality, Economic Development and Transnational Exchange*, in: *European Union Politics* 2/2008, pp. 187-215; Aser Babajew, *Demokratieförderung zwischen Annäherung und Sanktionen. Der US-amerikanische und deutsche Umgang mit dem Lukashenka-Regime in Belarus* [Democracy Promotion between Rapprochement and Sanctions. US and German Approaches to the Lukashenka Regime in Belarus], HSFK Report Nr. 3/2011, Frankfurt am Main.

In general, the influence of the EU and the USA on Belarus is only minor. The Belarusian market is very limited and has been dominated by Russian enterprises. Russia is the biggest trading partner for Belarus (48.2 per cent). The EU is in second place with 25.1 per cent, followed by Ukraine with 7.2 per cent, China with 3.2 per cent, and Venezuela with 1.8 per cent.²¹ According to a recent survey, only about 20 per cent of Belarusians have visited an EU country.²² As Roger Potocki notes, the flow of information is very restricted, and the EU visa regime (and that of the USA) is also an impediment for civil society. In addition to visa regulations with the longer-established EU members, a visa regime has been introduced with the new EU countries, Belarus's close neighbours.²³ Only 0.8 per cent of Belarus's trade is with the USA.²⁴ US policy towards Belarus has tended to be passive, characterized by "selective interaction".²⁵

From 2008 to 2010, the EU treated Lukashenka as a "potential ally", pursuing the goal of the "geopolitical reorientation of Belarus" away from Russia.²⁶ The political dialogue between the EU and Belarus improved during this period: In 2008, Belarus and the EU signed an agreement on opening the Office of the European Commission in Minsk. In 2009, Belarus was invited to participate in the EU's European Partnership initiative, and discussions were held on the establishment of an EU-Belarus Human Rights Dialogue, intensified technical co-operation, and the active participation of Belarus in the EU's Eastern Partnership initiative. High-level official contacts between the EU, its individual member states, and Belarus were intensifying. In particular, several high-ranking EU politicians visited Belarus in October-November 2010 and met with the "last dictator" in Europe; these included Štefan Füle, the EU Commissioner for Enlargement and European Neighbourhood Policy; President Dalia Grybauskaitė of Lithuania; and the foreign ministers of Germany and Poland, who promised him "carrots" – loans, financial support, co-operation – if the elections were conducted in a free and fair way. Reuters even cited the opinion of President Grybauskaitė, allegedly expressed by her at an informal meeting: "The victory of Alyaksandr Lukashenka in the coming presidential elections will provide for

21 See Belarus' Trade with Main Partners (2010), in: DG Trade Statistics, *Belarus. EU Bilateral Trade and Trade with the World*, 8 June 2011, at: http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113351.pdf.

22 See *Soyuz v tsifrah. Opros pokazal: belorusy blizhe k Rossii, chem k Evrope* [The Union in Numbers: Poll Shows Belarusians Closer to Russia than Europe], 19 January 2012, at: <http://www.rg.ru/2012/01/19/opros.html>.

23 Cf. Rodger Potocki, Belarus: A Tale of Two Elections, in: *Journal of Democracy* 3/2011, pp. 49-63, here: p. 51.

24 See Belarus' Trade with Main Partners (2010), cited above (Note 21).

25 More on the USA's Belarus policy in: Andrey Fyodorov, Belarus-U.S.: From Dialogue to Sanctions, in: *Belarusian Yearbook 2010*, cited above (Note 5), pp. 87-93.

26 Grigory Ioffe, Belarus and the West: From Estrangement to Honeymoon, in: *Journal of Communist Studies and Transition Politics* 2/2011, pp. 217-240, here: p. 217.

Belarus's stability and will weaken Russia's influence in this country."²⁷ The importance of the EU for Belarus is also seen in Lukashenka's hiring of PR companies based in the EU countries, whose task was to promote a better image for Belarus and demonstrate its liberalization.²⁸

As a result, due to the negative economic developments in Belarus, its worsening relations with Russia, and its demonstration of interest in closer relations with the EU, EU politicians hoped that this time the wind of change really was blowing. At the same time, it was unwise to attribute too much importance to Lukashenka's seeming shift towards the EU, because such shifts in Belarus's foreign policy focus from Russia towards the EU and vice versa have happened before.²⁹ In fact, Lukashenka has often "played" both powers, successfully using these two vectors of his foreign policy to gain benefits from both sides at different times.

The geopolitical competition between Russia and the EU, which became especially prominent during and after EU enlargement in 2004, serves as a favourable condition for Lukashenka's attainment of his political and economic goals. Elena Korosteleva writes in this context: "The coincidence of Russian sanctions with Belarus's (even temporary) rapprochement with the West could only suggest a kind of a 'tug-of-war' between the greater neighbours."³⁰ She seems to imply that it is Russia which is responding to the EU's policies in a competitive way. As Grigory Ioffe, on the other hand, notes: "Since early 2007, signs that the West is waging a tug-of-war with Russia for Belarus's favours have been [...] plentiful [...]."³¹ No matter who is primarily at fault, both Russia and the EU are to be blamed for this geopolitical competition in relation to Belarus and other post-Soviet countries, whose domestic developments and foreign policies are often treated as a zero-sum game with only one possible winner – either Russia or the West, generally speaking. Russia is afraid that Belarus could move towards the EU, leaving its own integration initiatives behind, which would further weaken Russia's influence in the CIS region. The EU, in turn, is afraid that excessive isolation of Belarus would push it closer towards Russia and distance it from the EU and its neighbourhood initiatives, which would not only put even

27 Citation from: Anton Khodasevich, Lukashenko menyaet vector vneshney politiki [Lukashenka is changing foreign policy vector], *Nezavisimaya Gazeta*, 15 November 2010, at: <http://www.ng.ru/printed/247708> (author's translation).

28 Cf. Gemma Pörzgen, Imagepflege für autoritäre Regimes. PR-Agenturen, der Journalismus und der Fall Belarus [Image Maintenance for Authoritarian Regimes. PR Agencies, Journalism, and the Case of Belarus], in: *Osteuropa* 12/2010, pp. 61-68.

29 On Belarus's foreign policy and identity being divided between Russia and the West, see David Rotman/Natalia Veremeeva, Belarus in the Context of the Neighbourhood Policy: Between the EU and Russia, in: *Journal of Communist Studies and Transition Politics* 1/2011, pp. 73-98; Schmidtke/Yekelchik (eds), cited above (Note 13); Stephen White/Ian McAllister/Valentina Feklyunina, Belarus, Ukraine and Russia: East or West? In: *British Journal of Politics and International Relations* 3/2010, pp. 344-367.

30 Elena Korosteleva, cited above (Note 7), p. 574.

31 Ioffe, cited above (Note 26), p. 218.

more distance between Belarus and a democratic orientation, but would also strengthen Russia.

As a result, while Belarus is often treated as a pawn in this geopolitical game by its two large neighbours, Lukashenka has learned to use both the EU and Russia and their competition as an effective tool of his policies. To a large extent, it is this competition that has provided for the sustainability of the status quo in Belarus.

Elections and Their Aftermath: From “Democratic Thaw” to “Iron Fist”

One more reason for the optimism in the EU and the USA about the approaching election in Belarus in 2010 was the way the election campaign was developing. But in the end the West was disillusioned, probably more so than after previous elections, by Lukashenka’s harshest repression of the opposition to date. Ambassador Geert-Hinrich Ahrens, Head of the OSCE/ODIHR long-term election mission, admitted his disappointment after the election: “I had very much hoped that this time we would be able to make a more positive assessment. Unfortunately, this is not possible [...]”³²

Indeed, in a way this was the most liberal and democratic election in Belarus in recent years, even though it was still far below the ODIHR/OSCE election standards. There were many signs of the internal “democratic thaw”: a total of ten candidates – many more than in previous years³³ – took part in the elections; all the candidates except for Alyaksandr Lukashenka presented their views and programmes in televised debates; mass meetings and different kinds of agitation campaigns and diverse activities were largely allowed;³⁴ the elections per se – their organization and the voting process – were classified as “good” to “very good” at 94 per cent of polling stations by the OSCE observers.³⁵ As Lukashenka said himself, “on the eve of the presidential election we have democratized to such an extent that it made not only you, but also me [...] sick”.³⁶ At the same time, according to the OSCE/ODIHR Election Observation Mission Final Report, even though “the

32 Citation from: OSCE ODIHR, Press Release, *Belarus still has considerable way to go in meeting OSCE commitments, despite certain improvements, election observers say*, at: <http://www.osce.org/odihr/elections/74656>.

33 To compare: in 2006 there were four candidates, in 2001 three candidates. Information is available at the official website of the CEC of the Republic of Belarus, at: <http://www.rec.gov.by/Archive>.

34 For more details, see OSCE ODIHR, *Republic of Belarus, Presidential Election, 19 December 2010, OSCE/ODIHR Election Observation Mission Final Report*, Warsaw, 22 February 2011, at: <http://www.osce.org/odihr/elections/75713> (henceforth: OSCE/ODIHR Final Report).

35 Cf. *ibid.*, p. 20.

36 Lukashenka o vyborakh: stolko bylo “demokratii”, chto prosto toshnilo [Lukashenka about the Elections: there was so much democracy that it made sick], *Naviny.By*, 21 April 2011, at: http://naviny.by/rubrics/elections/2011/04/21/ic_media_video_623_5500 (author’s translation).

campaign environment improved compared to recent elections”, the campaign was characterized by “a lack of a level playing field between the incumbent and the other nine candidates, and was marked by instances of pressure, harassment and misuse of administrative resources to promote the incumbent”.³⁷

There were different forecasts with regard to the possible voting results, and contradictory statistics were cited in the mass media. For instance, according to the exit polls, which were conducted by the TNS Ukraine, a market research group registered with the Belarusian CEC, 42 per cent of those polled had voted for the incumbent, while the opposition candidates that came second and third to Lukashenka, Uladzimir Nyaklyaeu and Andrey Sannikau, received 17 and 13 per cent, respectively.³⁸ According to another exit poll, conducted by the Independent Institute of Socio-Economic and Political Studies (IISEPS), Alyaksandr Lukashenka had the support of 58 per cent of voters, while Nyaklyaeu and Sannikau had the backing of 9.7 and seven per cent of voters, respectively.³⁹ These substantial differences between the opinion poll results published during the election period in Belarus demonstrate the lack of transparency and the fact that Belarus remains a closed country in many respects. Nevertheless, in spite of the disagreement among the data, the results of most of the opinion polls conducted by different independent socio-economic research agencies prior to the elections indicate that the percentage of votes attributed to Lukashenka by the CEC – almost 80 per cent – was highly exaggerated.

At the same time, the opinion polls conducted by different socio-economic research centres also showed continuity in that Lukashenka maintained a high degree of trust among the population: 49.7 per cent in September 2010 and an even higher proportion in some previous years, e.g. 60.3 per cent in November 2006.⁴⁰ As Sergey Nikolyuk notes, this “steadiness” of opinion among the Belarusian electorate is explained by the fact that the majority lacks “skills for survival without parental care of the state”.⁴¹ Lukashenka’s populist policies and mass-media propaganda campaigns paid off in the form of his popularity ratings.

37 OSCE/ODIHR Final Report, cited above (Note 34), p. 2.

38 Data by TNS Ukraine, cited in: Michael Batiukov, Dictator Lukashenko Declared a War Against People of Belarus on December 19th 2010, 20 December 2010, in: *American Chronicle*, at: <http://www.americanchronicle.com/articles/view/206250>.

39 See Table 1, Distribution of answers to the question: “Who have you voted for at the presidential election on 19 December?”, %, in: IISEPS, *Presidential Elections – 2010: “A Post-Battle Scene”*, at: <http://www.iiseps.org/e12-10-01.html>.

40 NISEPI, *Dinamika belorusskogo obshchestvennogo mneniya* [IISEPS, Dynamics of Belarusian Public Opinion], answer to the question: “Doveryaete li Vy presydeny Belarusy?” [“Do you trust the President of Belarus?”], data from 2005 to 2011, at: <http://iiseps.org/trend.html>. It should be mentioned, however, that throughout 2011 the economic situation deteriorated further, and as a result the level of trust decreased to 35 per cent in June and even 24.5 per cent in September 2011 and only 30 per cent of those polled would have voted for Lukashenka again. See *ibid.* Lukashenka’s repression of the opposition and civil society could have played a role here as well.

41 Nikolyuk, cited above (Note 5), p. 65.

One more reason for Lukashenka's victory is the weakness of the opposition. Its main problem remained its inability to unite, co-ordinate actions, and agree on a single candidate.⁴² As Vladimir Rovdo observes: "Leaders of most political parties regarded participation in the presidential election as an opportunity to popularize themselves and increase visibility of organizations they represented."⁴³ Furthermore, the leaders of the opposition failed to offer alternative models of development. Alyaksandr Sinkevich writes that Belarusian society only cares about how to "consume, consume, and consume".⁴⁴ As Matthew Rojanski notes: "[...] Belarusian society itself is not prepared to participate in, support, and sustain effective democratic governance", and even if Lukashenka were removed, the Belarusians would find themselves "ruled by an equally authoritarian successor in the end".⁴⁵ Or, in the words of Balázs Jarábik: "[...] Belarus does not have a problem because it has Lukashenka as a president; Belarus has Lukashenka because the country itself has a problem."⁴⁶

Even though these assessments are true, a few important reservations have to be made. In particular, as the opinion polls prior to the election demonstrated, the opposition candidates were able to attract a significant number of voters despite "restricted opportunities for effective campaigning" and "harassment and misuse of administrative resources to promote the incumbent".⁴⁷ Thus the society is awakening, and this is a very important change. As has been mentioned, the Belarusian economy had become more vulnerable by 2010. If the economic situation in Belarus continues to worsen, this awakening will be even stronger. Furthermore, even though the mass media are state-controlled, more people are accessing alternative information via the internet: The number of internet users has increased from 11,400 in 2006 to 1.8 million in January 2011.⁴⁸ Under the conditions of Belarus's current political system, it was impossible to expect free and fair elections that the opposition candidates would really have had a chance of winning. As a result, they were pursuing minimalist goals (making themselves known both at home and

42 On the state of the opposition in Belarus, see David R. Marples/Uladzimir Padhol, *The Opposition in Belarus: History, Potential, and Perspectives*, in: Balmaceda/Clem/Tarlow (eds), cited above (Note 3), pp. 55-75; Hans-Georg Wicke: *Democratic Civil Society – An Alternative to the Autocratic Lukashenko Regime in Belarus*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2002*, Baden-Baden 2003, pp. 219-235; Astrid Sahm, *Civil society and mass media in Belarus*, in: Fischer (ed.), cited above (Note 6), pp. 49-64; Vitali Silitski, *Belarus – a country in transition? The State, elections, and the opposition*, in: *ibid.*, pp. 25-36.

43 Rovdo, cited above (Note 9), p. 60.

44 Alyaksandr Sinkevich, *Sumerki Epohi. Belorusskaya Shahmatnaya Doska* [The Twilight of the Epoche. The Belarusian Chessboard], 4 August 2011, at: http://naviny.by/rubrics/opinion/2011/08/04/ic_articles_410_174625.

45 Matthew Rojansky, *Belarus: No Easy Answers*, *Commentary*, 16 May 2011, at: <http://carnegeendowment.org/2011/05/16/belarus-no-easy-answers/30g3>.

46 Balázs Jarábik, *Belarus beyond sanctions*, FRIDE Policy Brief No. 72, April 2011, p. 1.

47 *OSCE/ODIHR Final Report*, cited above (Note 34), p. 2.

48 Cf. Potocki, cited above (Note 23), p. 57.

abroad and getting more support) rather than the maximalist aim (winning the election). Thus, the minimalist goals were achieved.

Furthermore, in spite of the weaknesses of the opposition and civil society in general, the opposition candidates did manage to gather thousands of supporters in central Minsk – in Oktyabrskaya Square – to protest against an allegedly fraudulent election after the polls had closed on 19 December.⁴⁹ In 2001 and 2006, the opposition had also tried to mobilize mass street protests against the alleged falsification of the elections, but without much success.⁵⁰

The protesters, however, lacked both clear goals and a collective vision when they gathered. Uladzimir Nyaklyaeu was not able to reach the square, as he was severely beaten up on the way. Five candidates and their supporters then moved to Nezavisimosti Square, where the parliament and the CEC are located. Apparently they hoped to negotiate with the authorities and exert influence on the CEC to count the votes fairly. While the protests were peaceful at first, it is not ultimately clear what happened next. There are various speculations about how events developed. On the one hand, some participants in the protests and observers (journalists) report that there was a small group of undercover instigators among the protesters. They started to storm the building where the CEC was working. This would also imply that it was Lukashenka and interest groups behind him who organized this attempted “coup d’état” in order to suppress or get rid of the opposition altogether. Other observers and participants in the events report that it was a small group of protesters who initiated violent action and that some candidates (Andrey Sannikau in particular) expressed their support for the idea of storming the government building. There is evidence – photos and videos – to support both viewpoints.

As a consequence, the protests were dispersed violently by OMON (the riot police), who used disproportionate force indiscriminately against peaceful demonstrators and observers as well as violent protestors. On 20 December, President Lukashenka announced that 639 people had been arrested, and confirmed that opposition candidates were interrogated in the KGB detention facilities.⁵¹ Some of the detained activists were sentenced to pay administrative fines of various amounts or were incarcerated for ten to 15 days; some opposition presidential candidates were sentenced to five to six years’ impris-

49 The description of these events is based primarily on the information available in: OSCE/ODIHR *Final Report*, cited above (Note 34), section XVI on “Post-Election Developments”, pp. 22-24; AFN, *Spetsoperatsiya “Ploshchad”* [Special Operation “Square”], 22 December 2010, at: <http://afn.by/news/i/146025>; Dzianis Melyantsou, *Square 2010: Scenario and Preliminary Results*, 13 January 2011, at: http://www.belinstitute.eu/index.php?option=com_content&view=article&id=845%3Anone&catid=11%3Apolitics&Itemid=28&lang=en.

50 Cf. Silitski, cited above (Note 42), p. 27.

51 Cf. *20 dekabrya Aleksandr Lukashenko provel press-konferentsiyu dlya predstavitelei otechestvennykh i zarubezhnykh SMI* [On 19 December, Aleksandr Lukashenko held a press conference for representatives of local and foreign media], Ofitsial’nyi Internet-Portal Prezidenta Respubliki Belarus’ [Official internet portal of the President of Belarus], 20 December 2010, at: <http://president.gov.by/press104951.html#doc>.

onment.⁵² The administrative courts worked in closed sessions in many cases, and there was a great deal of evidence that their decisions were neither fair nor free. Some of those arrested claimed that they were tortured.⁵³ A number of civil society activists have fled the country.

Because Lukashenka's government did not allow the OSCE fact-finding mission or any other international investigation of the events, it is difficult to draw a final conclusion on what exactly happened, and why the events developed from a peaceful meeting into a violent conflict. Nevertheless, what matters is the fact of the authorities' harsh and disproportionate reaction and repression of the opposition and civil society, which continued after the election.

What were the reasons for such a harsh reaction on the part of the regime? There are several opinions on this point.⁵⁴ In all likelihood, the reaction was predetermined by a number of factors. Most importantly, Lukashenka's regime became more vulnerable under the conditions of a worsening economy and more pragmatic policies on the part of Russia. In addition, this feeling of vulnerability might have been strengthened by the division among the ruling elites, that is between Belarusian "*siloviki*" and more liberal pragmatic forces. One sign of this could be the following sequence: on 24 December, the CEC announced the official results of the election, but on 27 December, the government resigned, and then, as early as 28 December, Lukashenka appointed a new prime minister and allocated other important posts.⁵⁵ Experts long ago pointed to the wrangling inside the ruling elite.⁵⁶ Besides, as already mentioned, society started to awaken, and the opposition was able for the first time to mobilize crowds for a meeting in central Minsk; this must have reminded Lukashenka of the threat to his regime represented by a potential "colour revolution". Lukashenka might have been concerned about the support the West was giving to the opposition in terms of funding, and "his aim may have been to create a situation that 'forced' him to react and gave him an excuse to attack the opposition".⁵⁷ Finally, foreign-policy and geopolitical grounds have played their part as well. Fyodor Lukyanov assumes that Lukashenka deliberately used "shock tactics" in order to revive Moscow's interest in Minsk: If Russia's interest grows, the EU – aiming to

52 On the fate of all nine opposition presidential candidates after the elections, see Ilya Azar, Nadezhda umerla [The hope has died], *Lenta.ru*, 28 September 2011, at: <http://lenta.ru/articles/2011/05/27/statkevich/>. Printed.htm.

53 See e.g. Amnesty International, *Belarus: Further information: Opposition activist tortured in detention*, at: <http://www.amnesty.org/en/library/info/EUR49/015/2010/en>.

54 Cf. e.g. Joerg Forbrig/Rainer Lindner/David Marples/Arkady Moshes/Astrid Sahn, *Der Fall Belarus. Analysen, Interpretationen, Konsequenzen*, in: *Osteuropa* 12/2010, pp. 5-21.

55 Cf. Sidorskogo "ushli" po politicheskim prichinam [Sidorski "had to go" for political reasons], in: *Belaruskaya Delovaya Gazeta*, 29 December 2010, at: <http://bdg.by/news/politics/13340.html>.

56 Cf. Andrei Liakhovich, *Belarusian elites – change and authoritarian rule*, in: Fischer (ed.), cited above (Note 6), pp. 37-48.

57 Jarábik, cited above (Note 46), p. 3.

prevent Belarus from coming under full Russian control – will come to Belarus to search for a compromise.⁵⁸

In summary, contrary to Western hopes of a more democratic Belarus, Lukashenko ended the apparent “democratic thaw” by applying the “iron fist” with massive human rights violations and policies of intimidation and repression. As a consequence, Lukashenko got rid of the likely main opposition representatives for years to come and tightened the screws in an attempt to strengthen his regime. Nevertheless, if the earlier elections demonstrated the regime’s strength and sustainability, “the events following the 2010 contest have exposed that same regime’s vulnerability and precarious support today”.⁵⁹

The Closure of the OSCE Office in Minsk

One more subsequent reaction of the authorities was the closure of the OSCE Office in Minsk. The OSCE had been present in the country since 1998, first as the Advisory and Monitoring Group (AMG) established on the initiative of the OSCE in response to Lukashenko’s dissolution of parliament (13th Verkhovny Soviet [Supreme Council]), which had been elected in a free and democratic way, and its replacement by a new hand-picked one. On 31 December 2001 the AMG was closed, and the OSCE Office in Minsk was established in its place from 1 January 2002 onwards with a new mandate.

The OSCE-Belarus relationship has not been easy.⁶⁰ There were shifts from more positive and co-operative to more negative tactics in Belarus’s policy towards the OSCE field presences. At times, the Belarusian government was overloading the OSCE Office with project proposals, trying to focus the OSCE activities on the issues which were of interest to the Belarusian government and away from the problems in the area of democracy and human rights. Overall, the Belarusian government was trying to establish a controlling and veto power over the activities of the OSCE presences in the country, which are independent institutions and act on the basis of their mandates. To some extent, the shifts in Belarus’s policy towards the OSCE field presences and the OSCE as a whole also reflect the shifts in Belarus’s policy towards the West in general.

The mandate of the OSCE Office in Minsk was to be renewed annually by all 56 OSCE participating States. On 31 December 2010, the current man-

58 Fyodor Lukyanov, Master of Intrigue, RIA Novosti, 13 January 2011, in: David Johnson’s *Russia List* 9/2011.

59 Potocki, cited above (Note 23), p. 50.

60 Cf. Eberhard Heyken, Difficult relations: The OSCE and Belarus, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2006*, Baden-Baden 2007, pp. 141-152; Uta Zapf, Relations Running Hot and Cold: The Reopened OSCE Mission in Minsk and Its Political Prospects, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 139-148.

date expired but Belarus refused to prolong it. It explained its decision as follows: “[...] this is a conscious decision pre-determined by the lack of objective grounds for the OSCE Mission to stay in Belarus [...] The assessment of the results of the Minsk-based OSCE Office shows that the Office’s mandate has been fulfilled. As the Latvian, Estonian and Georgian experience indicates, where, in the recent years, similar field missions of the OSCE were closed by those countries following a period of their work, the OSCE project activities may be successfully and efficiently implemented in direct liaison with the OSCE institutions.”⁶¹

The OSCE presences focused on the problems in the human dimension (human rights, democracy), but have also dealt with environmental and economic issues (since 2002). The OSCE’s critical election assessments also played an important part in triggering the so-called “colour revolutions” in Georgia, Kyrgyzstan, and Ukraine. Under the conditions of the ongoing harsh repressions and the vulnerable socio-economic situation, the Lukashenka government might have been aiming to get rid of one more potential source of destabilization for the current regime in Belarus by closing the OSCE Office. Furthermore, this step also helps the regime to cut off one more source of external support to the opposition and civil society, making them weaker.

In general, there are many discussions within the OSCE about its field operations, their effectiveness, and their future.⁶² OSCE field missions are indeed often perceived as stigmas and as a sign that something is wrong with this or that state, not only by the CIS participating States of the OSCE, but also by Western countries. The question is whether the Western states would turn to the OSCE themselves if something went wrong there. Those states which have closed the OSCE field presences on their own territories have perceived this development as something normal and necessary to demonstrate that they have solved many problems that the OSCE presences were tackling and that they could proceed further on these issues by themselves. Even in the case of the Baltic states, it could be questioned whether the OSCE field presences have really completed their missions and whether all problems were solved. But in the case of Belarus, the OSCE Office was closed just when the domestic situation was acute and problems – especially in the areas of human rights, rule of law, and democracy – were substantial, when the weak civil society was in great need of international support, and unbiased “eyes and ears” were needed to clarify what had happened.

Since closing the OSCE Office in Minsk, Belarus has continued to co-operate both with the OSCE directly and within its framework. Between the closure of the OSCE Office and May 2011, the Belarusian government submitted almost 40 project proposals on further co-operation with the OSCE,

61 Ministry of Foreign Affairs of the Republic of Belarus, *Press Secretary Andrei Savinykh comments on Belarus decision not to extend the mandate of the Minsk-based OSCE office*, at: http://www.mfa.gov.by/en/press/news_mfa/ffbca02585447acc.html.

62 For more information, see Frank Evers, *Appropriate Ways of Developing OSCE Field Activities*, CORE Working Paper 22, Hamburg, April 2011.

thus demonstrating Belarus's further readiness to co-operate with the Organization as a whole. It is unclear, however, how this large number of projects is supposed to be implemented without an OSCE presence in the country.

International Reactions

This section focuses on international reactions to the election as well as subsequent events. It starts with Western reactions and then describes the position of the Russian Federation. To begin with, according to the OSCE/ODIHR Election Observation Mission Final Report, "The presidential election indicated that Belarus has a considerable way to go in meeting its OSCE commitments for democratic election."⁶³ The final report also took a very critical stance on the dispersion of the opposition meeting and the arrests, which also "undermined confidence in the election".⁶⁴ The OSCE's official response through its Chairmanship to the closure of the OSCE Office in Minsk was one of "deep regret" and hope of renewing the work of the Organization's field presence in the country after holding consultations with the Belarusian government.⁶⁵ Representatives of many Western governments expressed their regret and disappointment at this step from Belarus because "the mandate of the mission is not completed, as the OSCE's critical assessment of the presidential elections indicates".⁶⁶

Neither the USA nor the EU recognized the results of the election, and on 21 January 2011, the day of Lukashenka's inauguration, ambassadors from the EU and the USA left the country.⁶⁷ In a joint statement, Catherine Ashton and Hillary Clinton concluded: "Taken together, the elections and their aftermath represent an unfortunate step backwards in the development of democratic governance and respect for human rights in Belarus."⁶⁸ In addition, foreign ministers from several EU countries – Carl Bildt, Karel Schwarzenberg, Radek Sikorski, and Guido Westerwelle – jointly issued a highly critical statement: "There can be no business-as-usual between the European Union and Belarus' president [...] after what has happened since

63 OSCE/ODIHR Final Report, cited above (Note 34), p.1.

64 Ibid.

65 Cf. OSCE Chairmanship, Press Release, *OSCE Chairmanship starts consultations on continuing OSCE's work in Belarus*, Vilnius, 3 January 2011, at: <http://www.osce.org/cio/74824>.

66 *Statement by the Spokespersons of Catherine Ashton, EU High Representative, and Hillary Rodham Clinton, U.S. Secretary of State*, European Union, Brussels, 4 January 2011, A 003/11, at: http://eeas.europa.eu/delegations/belarus/statements_belarus/spanish_statement_on_belarus/_index_en.htm.

67 Cf. Lukashenko i prestolonasledniki [Lukashenko and the heirs to the throne], *gazeta.ru*, 21 January 2011, at: http://www.gazeta.ru/politics/2011/01/21_a_3499966.shtml.

68 *Joint Statement by EU High Representative Catherine Ashton and US Secretary of State Hillary Clinton on the post-Presidential Elections situation in Belarus*, Brussels, 23 December 2010, A 276/10, at: http://consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/118697.pdf.

the presidential election [...]. Continued positive engagement with Mr. Lukashenko at the moment seems to be a waste of time and money.”⁶⁹ The EU discussed a range of very strict sanctions to be applied in relation to Belarus, although the list of sanctions finally adopted in 2011 looks much more modest.⁷⁰ The EU’s position vacillates between the desire to punish the Lukashenka regime and him personally and support civil society, and the fear that the harsh sanctions could push Lukashenka closer to Russia. As a result, the EU is at a loss, not knowing how to influence Lukashenka.⁷¹

The position of the Russian Federation on the elections in Belarus has been controversial. According to the CIS election observers, “[...] these elections were transparent and met the requirements of the election legislation and common democratic norms”.⁷² The CIS recognized the elections as legitimate: “Our mission has not uncovered facts that would shed doubt on the legitimacy of these elections.”⁷³ Russian president Dmitry Medvedev congratulated Lukashenka on his re-election.⁷⁴

At the same time, the Russian mass media, even state-controlled channels, reported critically on the post-election events in Belarus. Even more importantly, high-level Russian officials have been emphasizing that the Russian interpretation of events in Belarus corresponds to that of the West. Arkady Dvorkovich from the Russian Presidential Administration made a clear statement that it was the presidential election that had led Belarus into the period of instability, while Foreign Minister Sergei Lavrov condemned the sentences given to opposition activists.⁷⁵ Lavrov also stated: “What happened after the closure of the polls is unacceptable [...] And Russia has spoken against it [...] because the wave of arrests in general cannot but arouse appropriate emotions”.⁷⁶ Thus, in general, Russia took a more critical position on the elections in Belarus and their aftermath than is usually the

69 Carl Bildt/Karel Schwarzenberg/Radek Sikorski/Guido Westerwelle, Lukashenka the Loser, in: *The New York Times*, 23 December 2010, at: <http://www.nytimes.com/2010/12/24/opinion/24iht-edbildt24.html>.

70 Compare *European Parliament Resolution of 20 January 2011 on the Situation in Belarus*, 21 January 2011, at: <http://democraticbelarus.eu/node/11167>, with *European Commission – Restrictive measures, European Union, Restrictive measures (sanctions) in force*, as of 16 October 2011, at: http://eeas.europa.eu/cfsp/sanctions/docs/measures_en.pdf.

71 Even those visa sanctions on which the EU agreed show “how little the EU knows about Belarus”, as dozens of officials named on the list no longer hold their positions, were not responsible for the events, and one has even died. Cf. Jarábik, cited above (Note 46), p. 2.

72 CIS Executive Secretary Sergei Lebedev, cited in: CIS, OSCE observers say Belarus elections democratic, *RIA Novosti*, 20 December 2010, at: <http://en.rian.ru/world/20101220/161854376.html>.

73 CIS Executive Secretary Sergei Lebedev, cited in: *ibid*.

74 See Medvedev ofitsialno pozdravil Lukashenko s pobedoi [Medvedev officially congratulates Lukashenko on victory], *Lenta.ru*, 25 December 2010, at: <http://lenta.ru/news/2010/12/25/okwin/>.

75 Cf. Dzianis Melyantsou (ed.), *Belarus’ Foreign Policy Index*, April-May 2011, p. 7, at: http://www.belinstitute.eu/images/doc-pdf/BISS_Int_Monit_2_2011_en.pdf.

76 Sergei Lavrov, cited in: Russia does not support sanctions against Belarus but considers massive post-election arrests unacceptable, foreign minister says, in: *Belarus News*, 2 February 2011, at: http://naviny.by/rubrics/english/2011/02/02/ic_news_259_360623/.

case with elections in the CIS countries, which – contrary to OSCE/ODIHR reports – CIS observers and Russian official representatives claim are free and fair. At the same time, Russia still needs Belarus as a partner and transit country for its energy to the West. Furthermore, Russia relies on Belarus in its SES project. On 21 December 2010 Belarus ratified 18 documents on the formation of the SES, which includes customs union.⁷⁷ All in all, Russia tried to kill two birds with one stone: On the one hand, it made a deferential gesture to the West by criticizing the Belarusian elections; at the same time, it courted Lukashenka by legitimizing his regime, because Russia does not want to push Belarus towards the EU.

As far as the closure of the OSCE Office in Minsk is concerned, the Russian Federation itself closed the OSCE Assistance Group that was working in Chechnya in 1995-2002. This is why its position on this issue was that one should not over-dramatize the closure of the OSCE Office. The Russian Federation, together with Belarus and some other CIS countries, has criticized the OSCE presences for allegedly turning into a mechanism of control over the host state.⁷⁸ Thus, Russia in general supported the decision of the Belarusian government.⁷⁹

To sum up, both Russia and the Western actors lack clear strategies in relation to Belarus. They simply do not know what to do about this country, and their policies depend not only on how the situation develops in Belarus per se, but also on each other's actions and the state of their bilateral relations.

Outlook

This section presents an overview of how the situation in Belarus developed in 2011 and considers the prospects of the Lukashenka regime. It also summarizes the main findings of this contribution. Belarus remains a very unpredictable country and a mystery. In recent years, many analysts have been stating that Lukashenka's room for manoeuvre in foreign policy "has shrunk dramatically".⁸⁰ His scope for manoeuvre has shrunk even more in 2011 due

77 Cf. Belarus ratifies single economic space documents, in: *The Voice of Russia*, 21 December 2010, at: <http://english.ruvr.ru/2010/12/21/37399078.html>.

78 See Permanent Delegations of Belarus, Kazakhstan, Kyrgyzstan and Russia, *Food-for-Thought Paper, On the Issue of Reform of the OSCE Field Activities*, PC.DEL/986/03, 4 September 2003; Permanent Delegations of Belarus, Kyrgyzstan, Tajikistan, Russia, *Food-for-Thought Paper for the Corfu Process on Enhancing Effectiveness of the OSCE Field Operations*, PC.DEL/406/10/Corr.3, 2 July 2010. For more information, see Evers, cited above (Note 62).

79 This was also the case when 14 participating States tried to invoke the "Moscow Mechanism" in relation to Belarus, while the Russian Federation questioned its necessity. See Briefing by Alexei Sazonov, Deputy Director of the Press and Information Department of the Russian Foreign Ministry, 14 April 2011.

80 Grzegorz Gromadzki, Belarusian foreign policy – change or continuity? In: Fischer (ed.), cited above (Note 6), pp. 93-104, here: p. 102.

to the economic crisis, which continued to intensify, and as a result of the deterioration of relations with both Russia and the West. Even if Lukashenka tries to project power and confidence through his actions, the elections and their aftermath signify the weakness and vulnerability of his regime.

Both the Russian Federation and the Western actors adopted a more careful and pragmatic policy towards Belarus. They do not trust Lukashenka. While the Western countries have lost their last illusions regarding a more democratic Belarus under Lukashenka, it will be very difficult for Russian leaders to forget all the provocative statements Lukashenka made regarding them personally, and they know that he can cheat them again whenever he wants. Strict conditions apply not only to IMF loans, but also to those from Russia (via EURASEC), and the funding Belarus has received so far or could receive in the future via these two or other international channels will hardly help it to solve the economic crisis it is experiencing. All it does is patch the holes in the state budget, preventing the situation from escalating further in the short term. The myth of the Belarusian “economic miracle” has burst like a soap bubble. The question is how long Lukashenka will be able to sustain his regime nonetheless.

So far, Lukashenka has used his “traditional” means of sustaining his regime. While repression continued in 2011, he started to use political prisoners in his relations with the EU, trying to compel the latter to mitigate sanctions against him personally and the representatives of the ruling elites behind him. He is again trying to play the Russian card, hoping that the EU would not want Russia’s influence over Belarus and in the post-Soviet space to strengthen. He is hoping to receive financial infusions from the West into the economy and thus into strengthening the political system. The Belarusian economy needs modernization, and in this sense it needs the EU more than Russia, as Russia itself looks to the EU for support in this area. The EU faces a challenge as it seeks to support civil society and punish Lukashenka and those behind him, but it does not know how to do this effectively in relation to a country that does not aspire to membership or close integration with it. Furthermore, Russia’s policies have often counterbalanced the EU’s efforts in the past.

In parallel to this policy towards the EU, Lukashenka started to make concessions to Russia, agreeing to take further steps in its integration initiatives (the customs union and SES integration in general). At the same time, Russia is now more concerned with its own domestic political developments and the parliamentary and presidential elections. It does not need destabilization on its borders, so it will probably continue to support Belarus, but only to the extent of not allowing the collapse of the regime. After the alternative transit energy routes – the Nord Stream and Baltic Pipeline System 2 (BTS-2) projects – become operational in 2011, Russia will be less dependent on Belarus in terms of energy. As a consequence, Lukashenka will lose one of his instruments for influencing Russia, and this will be one more trump card

in Russian policy towards Belarus. Nevertheless, Russia still needs Belarus's co-operation on the SES alongside other economic, political, and security issues, and it will therefore continue to support and legitimize Lukashenka's regime, but to a lesser – absolutely necessary and nothing more – extent. Much will also depend on the concessions Lukashenka is ready to make.

Meanwhile, Lukashenka is also trying to intensify co-operation with other international actors, in particular China, Venezuela, and some Middle East countries, who – in contrast to the EU – do not care about the state of Belarus's democracy. However, those states are pragmatic in their economic relationships. They will not subsidize Belarus's economy and Lukashenka's political regime for free. The problem is that Belarus has few lucrative investment opportunities to offer these countries, and this is why their interest in Belarus will remain marginal.

Even if Lukashenka's regime falls, and new government becomes possible, the question of what will change in the country remains. As the experience from neighbouring countries such as Ukraine demonstrates, even achievements of the democracy-oriented and pro-Western "orange revolution" have not brought many results: This can be attributed primarily to the inability of the former opposition leaders to unite, co-ordinate action, and co-operate. This problem exists in relation to Belarus as well.

In summary, Lukashenka is the official victor of the elections, and he is acting in a winner-takes-all manner, repressing the opposition and playing with Russia and the West. Nevertheless, the external factors influencing his domestic and foreign policies, as well as the domestic political and economic situation, have changed significantly. This means that Lukashenka's most recent victory is much less convincing than those of previous years, and consequently the status quo in Belarus no longer seems to be so stable and unchangeable.

Neither the Russian Federation nor the Western actors know what to do about Belarus. Neither does Lukashenka himself have a clear strategy for domestic and foreign policies; instead, he continues to gamble. As long as there is geopolitical competition between Russia and the West, his tactics of playing the East against the West have a chance of succeeding in the future as well, in spite of existing vulnerabilities.

Politics and Human Rights in Tajikistan: Squandered Opportunities, Uncertain Future

Background

A black hole in Eurasia. That's how Tajikistan, a post-Soviet Central Asian state, could be described, given the almost total lack of attention it receives from the outside world. The deficiency in global awareness of Tajikistan has at least three causes: One is its lack of easily exploitable resources. Though extremely rich in minerals and water scattered throughout its harsh terrain, Tajikistan as yet lacks commercially available petroleum and natural gas that can be piped out of the country as a cash-cow export (something that Tajikistan's neighbours Kazakhstan, Turkmenistan, and Uzbekistan possess). Aside from cotton, aluminium, and modest amounts of gold and silver, Tajikistan's resources are generally not easy to access and exploit.

The second cause is Tajikistan's distance from global centres of power: As the poorest of the ex-Soviet and post-communist states and one of the most easterly of the newly independent republics, Tajikistan is far (both physically and psychologically) from Washington and Brussels and generally does not register on their radar – though Beijing's ties with its Western neighbours (economic ties for the most part so far), including Tajikistan, are rapidly strengthening.

Cause number three is Tajikistan's dangerous neighbourhood: Hamrokhon Zarifi, Tajikistan's foreign minister and the country's former ambassador to the Organization for Security and Co-operation in Europe (OSCE) notes, with only slight exaggeration, that Tajikistan is "on the front line and at the most dangerous point where international terrorism, extremism and drug related crime converge".¹ Proximity to Afghanistan and a shared 1,400 km porous border has made Tajikistan strategically significant for Western powers in the post-9/11 world. However, in this regard it is not important in itself but merely as an entity or territory offering "unfettered over flight and transit"² to North Atlantic Treaty Organization (NATO) forces bound for Afghanistan and a perceived "strategic buffer state"³ against extremism, terrorism, and drug trafficking. The West on the whole, therefore,

1 Government of Tajikistan, *Statement by Mr. Hamrokhon Zarifi, Minister for Foreign Affairs of the Republic of Tajikistan, at the 856th Meeting of the OSCE Permanent Council*, 5 April 2011.

2 US embassy cables: "Cronyism and corruption" hinder reform in Tajikistan, in: *The Guardian*, 12 December 2010, at: <http://www.guardian.co.uk/world/us-embassy-cables-documents/248969>.

3 Struan Stevenson, *Address to Majilis*, 30 May 2011, at: http://www.struanstevenson.com/media/speech/struan_stevenson_-_tajikistan_visit_-_address_to_majilis_30_may_2011/.

takes a stance on Tajikistan based on *realpolitik*. Concern for human rights and democracy tend to remain at the level of rhetoric and – most significantly – take a back seat to hard security concerns.

Without discounting contemporary political and economic factors, the problems of today's Tajikistan are historical in nature, going back to both the pre-Soviet and Soviet eras. Prior to the formation of the Soviet Union, Tajikistan existed neither in name nor in its current boundaries. Up to 1920, what is now Tajikistan was mostly part of the archaic Emirate of Bukhara. Tajikistan is a Soviet invention and, given its heavy financial and technical reliance on Moscow over the span of seventy years, it was the republic least equipped for independence. This was demonstrated in the catastrophic civil war (1992-97) that took the lives of approximately 50,000 people, caused large-scale destruction to homes and infrastructure, and led to political and economic stagnation.

Soviet rigidity can also be blamed for Tajikistan's present-day problems. The reforms initiated by Mikhail Gorbachev at the end of the Soviet era were too little, too late. If the *perestroika* and *glasnost* that led to "the rejection of the totalitarian system; freedom of speech, assembly, religion and movement; and [eventually some] political and economic pluralism"⁴ had been introduced a decade earlier – i.e. in the mid-1970s, rather than the 1980s – and if allowance had been given for a federated USSR, in which the member republics could "exist as sovereign states within a decentralised democratic union"⁵ (which is what some 70 per cent of the Soviet population voted for in 1991), independence might either have been unnecessary for member republics, or if desired, its aftermath not as destructive for Tajikistan. As it turned out, Soviet collapse created a massive power vacuum along with economic and political destitution. When combined with the resulting bloody civil war, latent ethno-regional rivalries, poverty, and the lack of a historical experience of nationhood, this has made Tajikistan's post-communist transition highly arduous.

Recent Political Developments (January 2009 to June 2011)

Despite a tumultuous transition, Tajikistan has managed to arrive at a state of relative peace and – tenuous – stability. The Tajik peace, brought about by the signing of the 1997 Moscow accord between the government and the United Tajik Opposition (UTO), has not, however, led to either a more politically pluralistic society or to a democratic form of governance. This is due to the government's reneging on its obligations, the unfair prosecution and persecution of opposition groups, and the general suppression of legitimate dissent. Power in Tajikistan has become more centralized than before, and the

4 Mikhail Gorbachev, *Perestroika Lost*, in: *New York Times*, 14 March 2010.

5 Ibid.

separation of powers is just as non-existent. President Emomali Rahmon, at the helm for nearly two decades, controls – in law and, more importantly, in practice – all three branches of government. He appoints all judges, the military prosecutor, the prosecutor general, and all governors of the four provinces and their 56 districts, while also exerting near-full control on the 63-member lower house of parliament, a virtual rubber-stamp entity seemingly unable or unwilling to exert its legislative independence.⁶ President Rahmon's authoritarian style of governance also features a cult of personality and widespread clientelism. That said, the majority of the Tajikistani public, given its pragmatism and lack of political sophistication (partially a result of two decades of deteriorating educational opportunities), its traumatic experience of civil war, and a lack of exposure to viable political alternatives, still approves of Rahmon's regime. In a pre-parliamentary election poll conducted in December 2009 by the International Foundation for Electoral Systems (IFES), 83 per cent of respondents agreed that "Tajikistan is a democracy" – a figure that, if reliable, has risen significantly since similar surveys were held in 2004 (74 per cent) and 1996 (39 per cent).

Although economic growth during 2006-2010 averaged an impressive 6.3 per cent per year, Tajikistan remains the poorest state in the former Soviet and communist bloc in terms of per capita income. Nonetheless, the poverty rate has reportedly fallen in recent years, with only 50 per cent of the population living below the World Bank-designated poverty threshold at the end of 2009, compared with 73 per cent in 2003. However, while the government would like to take credit for this trend, the real key reason is the massive injection of remittances from a million or more Tajik citizens, who work mostly in low-paid jobs in Russia (and to a lesser extent Kazakhstan), and whose cash transfers to their families in Tajikistan amounted to an estimated 35 and 40 per cent of Tajikistan's gross domestic product (GDP) in 2009 and 2010, respectively. According to the World Bank, this is as "a higher share than in any other country in the world".⁷ Furthermore, against the background of Tajikistan's ubiquitous corruption, the government has not succeeded in setting the stage for domestic growth by enabling small and medium-sized businesses to flourish and attracting significant Tajik and foreign capital from abroad. Though it has spent funds on large and small construction projects throughout the country – from schools to hydroelectric plants – it has also continued to devote resources to symbolic national projects. In 2011, for example, the government paid for the erection of the world's tallest flagpole in Dushanbe, the capital city, at 165 meters and a rumoured cost of five million

6 Cf. Payam Foroughi, Tajikistan, in: Christopher Walker (ed.), *Nations in Transit 2010: Democracy and Dissent*, Freedom House, New York 2010, pp. 501-518.

7 Cf. Remittances, in: *The Economist*, 11 November 2010, at: <http://www.economist.com/node/17467174>; see also Payam Foroughi, Tajikistan, in: Christopher Walker (ed.), *Nations in Transit 2011: The Authoritarian Dead End in the Former Soviet Union*, Freedom House, New York 2011, pp. 533-551.

US dollars (surpassing the world's then tallest, in Azerbaijan, by three meters).

Tajikistan experienced democratic stagnation and breakdowns in security during 2009-2010. In January 2009, as part of a reshuffle of his cabinet, President Rahmon fired his minister of internal affairs, Mahmadvazar Solehov, who died, allegedly at his own hand, when government agents attempted to serve an arrest warrant on him. A few months later, Mirzo Ziyoev, a former UTO commander and ex-emergency situations minister under President Rahmon, was killed under mysterious circumstances along with eleven of his comrades, including five Russian Muslims, in Tajikistan's eastern Tavildara region. In the aftermath, the government accused Ziyoev and his associates of drug smuggling, membership of the Islamic Movement of Uzbekistan (IMU), and plotting a coup. This incident, however, may in fact have been a settling of scores by the government and the elimination of a perceived threat to Rahmon's regime.⁸ The then IMU leader, Tahir Yuldashev, denied that Ziyoev and his men were involved in the IMU. Nonetheless, violent events in eastern Tajikistan are thought to have been linked to the intensification of the war in Afghanistan, which may have caused seepage back into Tajikistan of Tajik insurgents and religious extremists who had previously fled to Afghanistan.⁹

There is evidence that the overthrow of the government of Kyrgyzstan in April 2010 shocked Tajikistan's ruling elite, with the president instructing government officials, in the immediate aftermath, to pay more attention to the concerns of ordinary citizens. Nonetheless, the chances of a so-called "colour revolution" taking place in Tajikistan remain slim to none at present, given that: (a) the country has been drained of hundreds of thousands of potential agents of change, both members of the professional elite and ordinary able-bodied citizens, who have migrated to mainly Russia to work and live, some permanently; (b) Tajikistan's civil society remains extremely weak, uncoordinated, somewhat incompetent, and largely apolitical; and (c) the memory of civil war has created a timid population that prefers perceived stability over political change. That said, given the ongoing political and economic stagnation in the country, the chances of sporadic unrest remain high. In June 2011, for example, a football match in the southern town of Kulob turned violent, apparently when local fans felt that the referee favoured the visiting team, which was captained by President Rahmon's son, Rustam Emomali. Given the rising food prices, unemployment, ubiquitous cronyism and corruption, and widespread distrust of the security forces and judiciary, similar "football riots"¹⁰ and even sporadic, more politically focused violence cannot be ruled out in the short to medium term.

8 Cf. Foroughi, cited above (Note 6), p. 507.

9 Cf. Economist Intelligence Unit (EIU), *Country Report Tajikistan September 2009*, London, 15 September 2009.

10 Cf. Economist Intelligence Unit (EIU), *Country Report Tajikistan June 2011*, London, 15 June 2011.

In May 2010, Abduljalil Homidov, a 65-year-old opponent of President Rahmon and a former governor of Sughd province, died in a Dushanbe prison while serving a 16-year term on a number of anti-state charges. Homidov was once an ally of Rahmon's, and assisted him in his rise to power. He was arrested in 2001 while visiting Tajikistan to attend his sister's funeral (he had reportedly spent two years in the Uzbek capital of Tashkent hiding from Tajik law enforcement agencies),¹¹ and later tried by the supreme court. He is the third prominent opposition figure to die in prison in recent years, following the deaths of a deputy leader of the Islamic Renaissance Party (IRP), Shamsiddin Shamsiddinov, in 2008, and the deputy leader of the unregistered *Taraqqiyot* ("Progress") Party, Rustam Faiziyev, in 2009.¹²

In August 2010, 25 convicts who were serving long prison sentences for a number of anti-state offenses killed five guards, gained access to firearms, and escaped from a prison managed by Tajikistan's notorious National Security Committee (NSC, aka "KGB"), which was supposed to be the most secure in the country. The prison break led to a rare criticism by the ministry of justice of the apparent mismanagement and lax administration of the NSC prison, and soon afterwards, the head of the NSC, Khairiddin Abdurahimov, (together with three of his deputies) was fired by President Rahmon, who, in turn, installed Saimumin Yatimov, a former ambassador of Tajikistan to the EU and the OSCE as the new head of the NSC.¹³ In September 2010, Tajikistan suffered its first ever suicide bombing, when a car laden with explosives detonated at the headquarters of the organized crime police ("division six") of the northern province of Sughd. Three people were killed and two dozen injured in the incident, which the authorities initially blamed on the IMU. Only days later, deadly clashes commenced in the east of the country, resulting in the deaths of a number of alleged rebels, many government troops, including 28 mostly young and poor conscripts, whose truck was ambushed, and 30 special police personnel in an embarrassing incident in which their helicopter was downed.¹⁴ The government blamed former UTO commanders Aluvuddin Davlatov (aka "Ali Bedaki") and Abdullo Rahimov (aka "Mullo Abdullo") for the truck ambush killings. And, in early January 2011, the authorities announced that Tajik special forces had managed to kill Davlatov and seven of his men in an operation in a village in the Gharm province, while Rahimov is said to have met a similar fate in April. According to Abdurahim Qahhorov, the minister of internal affairs, the intention of the Gharm insurgents was "to establish an international terrorist group" in Tajikistan.¹⁵ The government's

11 For details, see: <http://news.tj/en/news/former-head-sughd-district-abduljalil-homidov-buried-today-his-home-village-ispisor>.

12 Cf. Foroughi, cited above (Note 7), p. 540.

13 Cf. Economist Intelligence Unit (EIU), *Country Report Tajikistan September 2010*, London, 13 September 2010.

14 Cf. Foroughi, cited above (Note 7), p. 538.

15 BBC, *Vazorati kishvari Tozhikiston: "Alii Bedaki kushta shud"* [Ministry of Internal Affairs of Tajikistan: "Ali Bedaki killed"], 11 January 2011, cf.: http://www.bbc.co.uk/tajik/news/2011/01/110104_if_rasht.shtml (author's translation).

version of how Davlatov died, however, would soon be cast into serious doubt.

In February 2010, President Rahmon's regime held parliamentary elections, which were, unsurprisingly, flawed. Nearly all analysts had predicted its results in advance, some even arguing that millions of euros in mostly Western citizens' taxes were wasted on a 279-member joint OSCE-European Parliament election mission "tasked with observing a mockery of democracy".¹⁶ Aside from some amendments to the 1999 Parliamentary Election Law in 2004, no efforts were taken to implement any number of available blueprints for electoral reform. The final report of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) on its observation mission to Tajikistan's 2010 parliamentary elections revealed nothing out of the ordinary and under-reported Tajikistan's electoral flaws. Nonetheless, alongside the technical details and even praise contained in ODIHR's report, there are clear criticisms: Monitors determined that the elections "failed to meet many key OSCE commitments [...] and other international standards for democratic elections".¹⁷ Reference was also made to widespread use of proxy voting (which is illegal in Tajikistan) and suspected ballot stuffing. Comparatively little attention, however, was paid to the sporadic intimidation of candidates and harassment of opposition parties. According to data from Tajikistan's Central Commission for Elections and Referenda (CCER), the truth of which is highly doubtful, over 85 per cent of eligible voters participated in the elections, and the following parties received a national share of the vote above the five per cent threshold: the ruling People's Democratic Party (PDP, 70.6 per cent), the IRP (8.2 per cent), the Communist Party (7.0 per cent), the Agrarian Party (AP, 5.1 per cent), and the Party for Economic Reform (PER, 5.0 per cent).¹⁸ As a result, 55 seats in the lower house of parliament went to the PDP and two each to the opposition IRP and Communists, while two more went to the AP and the PER, both of which are known to be phony entities engineered by the authorities to demonstrate a semblance of political pluralism to naïve Western critics.

Opposition parties were rightly unhappy with the results of the elections. The IRP leader, Muhiaddin Kabiri, claimed that his party had likely won 30 per cent of the votes nationwide, while the leader of the Communists, Shodi Shabdalo, labelled the elections "a parody", and the Social Democratic Party (SDP) leader, Rahmatillo Zoirov, whose party reportedly received less than one per cent of the tally and was consequently excluded from parliament, called the elections "unfair and undemocratic". Zoirov claimed that the SDP had garnered twelve per cent of votes and accused the PDP of "expropriation of governance". Unfazed by the criticism, in a speech to the

16 Foroughi, cited above (Note 7), p. 538.

17 OSCE Office for Democratic Institutions and Human Rights, *Republic of Tajikistan, Parliamentary Elections, 28 February 2010, OSCE/ODIHR Election Observation Mission Final Report*, Warsaw, 6 July 2010, p. 3, at: <http://www.osce.org/odihr/elections/69061>.

18 Cf. *ibid.*, Annex: Final Distribution of Seats, p. 33.

newly elected parliament, President Rahmon called the February 2010 elections “transparent and democratic”. Ironically, there was no need for the regime to orchestrate electoral fraud to ensure its victory, as, despite massive economic, social, and political problems, the government’s propaganda and the politically uninformed population would have very likely ensured victory for Rahmon’s PDP under a fair ballot in any case.

In 2010, President Rahmon emphasized his government’s goals of “energy security, breaking the [interstate transportation] deadlock and ensuring food security”.¹⁹ To fund the Roghun hydroelectric power plant, which the authorities hope will eventually alleviate the country’s energy deficit and earn the state huge revenues from electricity exports, the government urged – and then coerced – the population to purchase shares in the project. By the end of 2010, share sales had totalled the equivalent of 185 million US dollars, around five per cent of the estimated capital required to finish Roghun. If eventually completed with the help of international investors, Roghun would be the highest dam in the world with a potential annual electricity output of 3.6 gigawatts, making Tajikistan the world’s largest per capita electricity producer. However, the project is facing both political and economic obstacles. Neighbouring Uzbekistan claims Roghun will be an environmental threat and will deprive it of irrigation water for its cotton industry,²⁰ while no foreign investor has yet to be found to bankroll the project. Still, the World Bank has commenced a social and environmental assessment of the Roghun project and promised financial assistance if this has a positive outcome.

According to the 2009 IFES survey, 64 per cent of Tajikistanis favour a secular state, 25 per cent approve of adopting some Islamic laws, and seven per cent desire an Islamic government. In 2010, President Rahmon warned of the dangers of Islamic extremism and said there were fundamentalist clerics who could threaten the country’s peace. He also asked for the return of thousands of young Tajik men studying in Islamic schools in Pakistan and the Middle East, arguing that otherwise many will become terrorists. The government has also declared illegal and detained hundreds of alleged Islamists on grounds of extremism. In February 2009, the supreme court outlawed the *Salafiyya*, a non-violent, mostly non-political, yet fundamentalist group. *Hizb ut-Tahrir* (“Party of Liberation”), an ideologically radical and bigoted – though non-violent – group, had already been banned. The court also reinstated a previous ban on another Muslim group, *Jamoati Tabligh* (“Proselytizing Community”), subsequently trying and imprisoning dozens of its members.²¹ Olivier Roy, a prominent expert on Islam (and the first head of the OSCE’s presence in Tajikistan), has previously referred to the transnational *Jamoati Tabligh* movement as “completely apolitical and law abid-

19 Address by the President of the Republic of Tajikistan His Excellency Emomali Rahmon to the People of Tajikistan, 5 January 2010, at: http://www.president.tj/eng/news_050110.html.

20 Cf. Foroughi, cited above (Note 7), p. 539.

21 Cf. *ibid.*, pp. 535 and 542-543.

ing”.²² And a 2011 law on parental responsibilities forbids mosque (and church) attendance by children under the age of 18. Many are of the opinion that the Tajik government’s repressive methods of fighting alleged Islamic extremism – methods such as bans on Islamic groups, arbitrary arrests, abuse, and imprisonment – could be self-defeating and lead to the spread rather than the stifling of extremism.²³ In his speeches, President Rahmon has repeatedly emphasized both the “Tajik nation” and the Hanafi school of Sunni jurisprudence. In September 2009, the government passed a new Language Law making Tajik the state language, and no longer listing Russian as the “language of inter-ethnic communication” (a phrase that remains in the constitution). Together, the new religion and language laws have the potential to alienate non-ethnic Tajiks, non-Hanafi Muslims, non-Muslims, and opposition Hanafi Islamists.²⁴ As for the imprisoning of supposed Islamic extremists, it is not clear, for example, how an “underfunded, demoralized, and corrupt” prison system can prevent radicalism or rehabilitate individuals.²⁵

The OSCE Mission, Tajikistan, and Human Rights

The OSCE originally commenced its operations in Tajikistan in February 1994. This was the OSCE’s first mission in Central Asia, with a mandate to promote institution-building, assist in establishing a constitution, organize democratic elections, and survey the human-rights conditions in the country. Within its focus on human rights, its work involved a threefold concentration on political prisoners, protection of Tajik refugees returning from Afghanistan (where they had sought refuge due to the Tajik civil war), and countering abuses by the security forces.²⁶ The OSCE’s use of projects was initially aimed at relieving the emergency situation in the country, where the basic security and wellbeing of the population were uncertain. Soon, however, the OSCE began to adopt a “quasi-developmental approach”,²⁷ privileging projects over engagement in political dialogue in Tajikistan and throughout Central Asia and kowtowing to the region’s post-Soviet leadership, which some felt desired to limit the activities of the OSCE or even to close down existing missions in the region. The emphasis on projects by OSCE field missions in countries such as Tajikistan has become a form of institutional path-

22 Olivier Roy, Search for a Perfect World of Islam, in: *Le Monde Diplomatique*, May 2002.

23 Cf. Foroughi, cited above (Note 7), p. 537.

24 Cf. Foroughi, cited above (Note 6), p. 503.

25 International Crisis Group, *Central Asia: Islamists in Prison*, Asia Briefing No. 97, December 15, 2009.

26 Cf. Olivier Roy, The Role of the OSCE in the Peace Process of Tajikistan, in: Roald Z. Sagdeev/Susan Eisenhower (eds), *Central Asia: Conflict, Resolution and Change*, Washington 1995.

27 Vladimir D. Shkolnikov, Missing the Big Picture? Retrospective on OSCE Strategic Thinking on Central Asia, in: *Security and Human Rights* 4/2009, pp. 294-306, here: pp. 294-295.

ology, which I would like to label “projectosis”. For the OSCE Office in Tajikistan,²⁸ the modus operandi has become engagement in often redundant, even counter-productive projects, rather than proper monitoring, reporting, and political activities.

Despite its lofty objectives in three dimensions, the OSCE Office in Tajikistan has had the de facto objective of maintaining a presence in the country and tagging along with the European and American agenda of countering terrorism, extremism, and drug trafficking emanating from Afghanistan, thus upholding Tajikistan as a buffer zone for the West’s hard-security concerns. The Office has thus taken an extremely conservative and overly cautious stance and has not utilized its political leverage to effect real reform of the country’s deteriorating and lawless security sectors (NSC and ministry of internal affairs, MIA) and the corrupt judiciary. During the period covered here, the Office is not known to have led any serious human rights investigations or to have used its cosy relations with the security sector organs to prevent the torture and ill-treatment of suspects.

In a commentary published in a local paper in the spring of 2011, Zafar Abdullayev, owner of the *Avesta* news agency in Tajikistan, referred to a large part of the national police as “crooked, corrupt and even explicitly criminal [...] or simply uneducated and uncivilized”. He wrote of the MIA’s lack of desire to tackle the issue of corruption among the police force due to a probable “financial pyramid of bribe-taking and extortion [which] leads to the supreme top”, and the “commonplace and systematic” abuse of ordinary citizens by the police, including the use of violence and torture.²⁹ In the last decade, especially given the expansion of the so-called “war on terror” into Central Asia, beatings and torture by Tajikistan’s security services appear to have increased at worst, or remained the same at best. As a result, the government’s policy has become one of arrest, abuse, torture, and show trials of those alleged to be guilty of extremism and acts of terrorism – many of whom in reality may well be innocent. Abuse and torture mostly take place in the early and pre-trial stages of detention as the police and security-service investigators attempt to force confessions from detainees. Methods of abuse used by the authorities include the application of electric shocks, while the rape of detainees has also been reported. Cases of judges investigating allegations of torture are rare to non-existent.³⁰

28 For simplicity’s sake, this contribution refers consistently to the “OSCE Office in Tajikistan”. Between June 1994 and October 2002, per its mandate as approved by the Tajik government, the presence was known as the OSCE Mission in Tajikistan. From October 2002 to June 2008, it was known as the OSCE Centre in Dushanbe. On 1 July 2008, the presence became the OSCE Office in Tajikistan.

29 BBC Monitoring Central Asia Unit, *Tajik Commentary Calls for Restoring Tarnished Police Reputation*, 9 June 2011.

30 Cf. Amnesty International, *Tajikistan: A Coalition of Non-governmental Organizations is Calling on the Government to End Torture and Fulfil its International Obligations*, Public Statement, 26 June 2011.

An unsuspecting mid-level security official participating in a round-table event on torture prevention in autumn 2010, organized by the UN Office of the High Commissioner for Human Rights (OHCHR), said: “If you don’t slap them a few times, they won’t confess!” This is not atypical of the mindset of Tajik government officials. Deaths of suspects as a result of abuse have been periodically reported by the media. In June 2009, Khurshed Bobokalonov, a specialist at the Tajik Oncology Centre, died due to suspected beatings by the police in Dushanbe.³¹ Another case is that of Safarali Sangov, who died while in police custody four days after being taken into detention in March 2011. According to eyewitnesses, the police beat him and other family members, including children and a pregnant woman. Though the government charged three policemen with “negligence”, it has refused to accept more serious allegations. The prosecutor has claimed that Sangov’s death was accidental, even alleging that his injuries were self-inflicted: It is claimed that he threw himself against a safe and the wall in the police station.³²

On the topic of police assistance programmes to Central Asia, David Lewis, a fellow in the Department of Peace Studies at the University of Bradford, writes that the OSCE lacks an “overall strategy”, let alone any “clear criteria” about the “political environment” required for such assistance to be effective. What one sees is indeed a series of “*ad hoc* projects of dubious value which undermine the OSCE’s core commitments to human rights and democratic principles”.³³ Not only is there no evidence that OSCE assistance has reduced police brutality in Tajikistan – and most other Central Asian states – but such assistance may well even be counterproductive. The OSCE’s programme of combating the “transnational security threats” of terrorism, drug trafficking, and organized crime, for example, is used by the same regimes, including Tajikistan, to “justify their own repressive internal security measures”. Lewis suggests that the OSCE should overhaul its police assistance and security sector reform (SSR) programmes and link them directly to human rights and political development.

In Tajikistan, police reform has been a ruse – as have the supposedly ongoing judicial and penitentiary reforms. The only reform for which evidence exists is superficial, such as the switching of nominal control of the prisons from the ministry of internal affairs to the ministry of justice or the proposed change of name from “*militsiya*” to “*politsiya*”, and various training and technical assistance projects to attract unsuspecting donors. One OSCE police assistance project in Tajikistan has reportedly spent over 100,000 euros since 2007 on a dog-training centre for the MIA, much of it in

31 Cf. Economist Intelligence Unit (EIU), *Country Report Tajikistan June 2010*, London, 14 June 2010.

32 Cf. Amnesty International, cited above (Note 30).

33 David Lewis, *Reassessing the Role of OSCE Police Assistance Programing in Central Asia*, Open Society Foundations, Central Eurasia Project, Occasional Paper Series No. 4, April 2011, pp. 6-7.

building, refurbishment, and procurement under a no-bid contract. At one point, the very dogs who were to be trained and taken care of died due to neglect. It is unknown what benefits, if any, an expensive and badly managed dog-training project has had on Tajikistan vis-à-vis its OSCE commitments. A recent news item tells of a similar project, in which trained dogs provided by the US were abused or sold by NSC employees.³⁴

The government's penitentiary reform programme (Legislation No. 533, 2003), which was to have been completed in 2008 and to have transformed the penitentiary system, is also generally considered a farce that has not led to any significant changes in the conditions and well-being of those detained. Among other things, Tajikistan has continued to prevent routine visits to prisons by the globally respected International Committee of the Red Cross (ICRC), an issue raised by the 2008 OSCE Chairman-in-Office, Finnish Foreign Minister Alexander Stubb, when meeting President Rahmon in Dushanbe. The government has also refused to ratify the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), which would allow for a joint UN- and government-approved inspection mechanism to prevent torture. The main reason for stopping access to prisons appears to be corruption. The state penitentiary system is nominally under the control of the justice ministry and is headed by a relative of President Rahmon, Lieutenant General Izzatullo Sharipov, described by the US Embassy as "a notorious former warlord rumored to be both corrupt and cruel"³⁵ and "involved in narcotics trafficking".³⁶ There is suspicion that the 19 prisons in Tajikistan are collectively managed as a lucrative pyramidal fiefdom. There have been 13 large-scale prison amnesties since Tajikistan's independence, and, according to Fattoh Saidov, head of the State Financial Control and Anticorruption Agency (formed in 2007), all of the prisoners released in the September 2009 amnesty had to pay bribes.

Although Tajikistan's prisons are closed to systematic inspections by third-party observers, the possibility of visits by international organizations, diplomatic missions, and the OSCE – which could be both highly symbolic and effective – does exist. In the past six years, however, the OSCE Office is known to have visited Tajikistan's penitentiaries only twice: In 2005, French Head of Mission, Ambassador Alain Couanon, visited the imprisoned journalist Djumaboi Tolibov in Ura Teppa (now Istaravshan). Ambassador Couanon's visit was critical as it resulted in the local authorities finally abiding by the country's supreme court decision and setting Tolibov free on

34 Cf. Farangis Najibullah, *Tajik Border Guards Dogged by Animal Neglect Allegations*, Radio Free Europe, 5 September 2011, at: http://www.rferl.org/content/tajik_border_guards_dogged_by_animal_neglect_allegations/24318854.html.

35 US Embassy Cable, *Human Rights Defender Reports on Prison Conditions*, 3 April 2007, at: <http://www.cablegatesearch.net/cable.php?id=07DUSHANBE500>.

36 US Embassy Cable, *Red Cross Reduces Mission; Tajik Government Prohibits Full Access*, 20 July 2007, at: <http://www.cablegatesearch.net/cable.php?id=07DUSHANBE1086>.

the same day. The other instance was an informal visit to a prison in Yovon by the Office's Human Rights Officer in 2007 to meet with illegally detained asylum seekers. As a result of this visit, key information on the background of the detainees was obtained. This, together with the support of the then Head of Mission, Ambassador Vladimir F. Pryakhin, a Russian national, and the intervention of the office of the UN High Commissioner for Refugees (UNHCR), secured the eventual release of the two detainees. Likewise, in 2008, the Office intervened in the case of an ex-Guantanamo detainee who, in violation of the UN Convention against Torture, was delivered by the US into the custody of Tajikistan's NSC upon his return to Tajikistan, denied access to his family and legal counsel, and placed in danger of abuse. According to the ex-detainee and his Washington-based lawyer, the Office's involvement in this case also appears to have been decisive, leading to his humane treatment by the Tajik NSC and his eventual release from custody.

The efforts of the OSCE Office to assist Tajikistan in reforming its penitentiary and judicial system have generally been ad hoc and have lacked any overarching and long-term strategy. Despite good initiatives (such as highly engaging seminars in 2008 and 2009 on the benefits of prison access and OPCAT ratification, co-sponsored by the Association for the Prevention of Torture, the government of Tajikistan, and key NGOs), the overall stance of the Office (especially in the past couple of years) has been to privilege engagement with the authorities on issues of politico-military significance rather than human rights. Existing human rights projects in 2010 and 2011, such as anti-torture training and the holding of round-table meetings for regional authorities, the provision of expensive consultants for the Human Rights Ombudsman's office, the sending of lethargic government bureaucrats on costly exposure and conference tours to Vienna and the Balkans, though attractive in theory, are generally merely cosmetic – a way for the Office to spend its budget while securing good relations with the Tajik authorities. More importantly, the Office does not seem to have made any serious efforts to prevent abuse and torture by government organs who receive assistance through OSCE projects in Tajikistan – most of it funded by Western taxpayers.

Two alleged cases of abuse concern Nematillo Botoqoziev and Ilhom Ismonov, both of whom were in the custody of the Tajik police (under the direction of the MIA) and NSC agents in 2010. Highly credible reports, including from a number of UN rapporteurs (on the case of Botoqoziev) and from Amnesty International (on Ismonov), have revealed gross violations of rights and due process, including a lack of timely, private, or any (in the case of Botoqoziev) access to an attorney, and physical and psychological abuse and torture (involving, among other things, intimidations, beatings and dousing with boiling water in the case of Ismonov). Having been fully briefed on both cases, the only action the OSCE Office in Tajikistan is known to have taken was to write a *note verbale* on the Botoqoziev case, and that

only after a Paris-based NGO's concerns about the case had been made public.³⁷ As these cases illustrated, the Office's engagement in human rights issues has generally not been proactive or interventionist. For instance, although personal relationships may be critical in solving problems in Central Asia, the Office has failed on a number of occasions to make use of its crucial contacts within the government, particularly with the NSC, whose agents were suspected of using torture in the two cases above, and with its head, Saymumin Yatimov, a former Tajik ambassador to the OSCE in Vienna. Nor has the Office used its financial leverage through its ongoing multi-hundred thousand euro projects with both the MIA and the NSC to prevent abuse and torture by the same organs. This is despite the fact that one of the Office's largest projects for nearly a decade – with millions of euros spent – has been with the NSC (demining and border management).

The government has been arresting and trying alleged extremists en masse and with little regard to due process. Nearly all extremist suspects are abused and/or tortured, while no legal council is provided to them prior to the extraction of confessions. At times, the government seeks its real or imaginary opponents abroad. In the period from October to November 2009, for example, a northern Sughd provincial court passed sentence on eight suspected IMU members, one of whom, Anvar Qayumov (accused of having been a local IMU leader), was extradited from an Afghan prison in early 2009 and sentenced to life imprisonment in Tajikistan. Given Tajikistan's infamous record of violating detainee rights, there are those that have criticized Qayumov's extradition for being a violation of the Convention against Torture on the part of the extraditing state, Afghanistan (over which the US has extensive leverage).³⁸ Also in January 2010, Kazakhstan repatriated another IMU suspect, Idris Sattorov, to Tajikistan. In contrast to Tajikistan, both Afghanistan and Kazakhstan have prison systems where there is a great deal more openness and access to detainees by lawyers and the ICRC is better. The US lawyer of the remaining Tajik citizen held at Guantanamo Bay detention camp, Omar Abdulayev, also warned in 2009 that his client could face torture and unwarranted imprisonment if returned to Tajikistan.³⁹

The killing of Aluvuddin Davlatov, a suspected extremist, as mentioned above, provides a good example of the government's total unwillingness to make human rights central to the approach of its security organs. It also shows the lack of will on the part of the OSCE Office to remedy the situation. In November 2010, after the army-truck shooting and the alleged downing of the special forces helicopter in eastern Tajikistan, the head of the NSC told the Tajik media that the operation of government forces in Tajikistan's east-

37 Cf. FIDH, *Tajikistan: Arbitrary Detention of a Kyrgyz Human Rights Defender*, 17 March 2010, at: <http://www.fidh.org/Tajikistan-Arbitrary-detention-of>.

38 Cf. Economist Intelligence Unit (EIU), *Country Report Tajikistan December 2009*, London, 7 December 2009.

39 Cf. Economist Intelligence Unit (EIU), *Country Report Tajikistan March 2010*, London, 12 March 2010.

ern Gharm region had “nearly ended and the small group of insurgents will soon be destroyed”.⁴⁰ And in January 2011, the authorities announced that Davlatov and a number of his comrades had been killed in a four-hour battle with government forces. Footage of the semi-naked corpse of Davlatov and a number of other men said to have been his compatriots was broadcast on state TV, with the government narrative stating that they had died as a result of a gunfight. By the first week of February, however, a video was being widely circulated among many of Tajikistan’s nearly six million mobile-phone owners depicting a frightened, bearded, shirtless man with a striking resemblance to the man whose corpse state TV had shown weeks earlier. The man being interrogated in an abusive manner was sitting in the back seat of a parked car with his arms tied behind his back. A man dressed in military fatigues was sitting on each side of him. One of the men, a moustachioed individual wearing what appeared to be the beret of a member of the Tajik MIA special police unit known as OMON (*Otryad Militsii Osobogo Naznacheniya*), was armed with a pistol, which he held at times to Davlatov’s temple. A third man in civilian clothing (possibly a NSC interrogator) was in the front seat, barking questions at the detainee: “Why did you shoot the soldiers?”, “Who ordered you to do it?”, “Who fixed your injured hand?”

After the release and widespread dissemination of the video, and in response to questions posed by the media, an MIA spokesperson called the clip an “ordinary fake”. However, the evidence pointing to the genuineness of the video was indisputable: As well as the fact that the man called “Ali Bedaki” (Davlatov) in the video is clearly the same person as the corpse shown on state TV in early January, the same moustachioed, beret-wearing OMON officer in the video is also seen in several shots of the government-broadcast footage, where he squats and poses with the dead bodies of Davlatov and the other alleged rebels. A former opposition commander, Olim Odilov, who knew Davlatov, also expressed certainty that the man being interrogated in the video is indeed him. Major news media covering Tajikistan, such as the BBC,⁴¹ in addition to international and local professionals (including key individuals within the security services and the ministry of foreign affairs), also agree that the man shown being abusively interrogated in the video was indeed Davlatov. What can be concluded, therefore, is that Davlatov (possibly alongside all seven of his comrades) was very likely a victim of an extrajudicial execution by a state organ of Tajikistan. Despite evidence pointing to an extrajudicial execution, however, the OSCE Office, which has been consistently uncritical of the increasing human rights violations of Tajikistan’s security forces, appears to have attempted to ride out yet another rights violation without taking any action of which we are aware that would attempt

40 BBC, *Vazorati kishvari Tozhikiston: Alii Bedaki kushta shud*, cited above (Note 15).

41 Cf. BBC, *Nashri vidiyue dar borai “bozdoshti Alii Bedaki”* [Release of video on “arrest of Ali Bedaki”], 1 February 2011, at: www.bbc.co.uk/tajik/news/2011/02/110201_sq_islam_ali_bedak.shtml.

to address a serious breach of OSCE principles by government organs that also happen to be the Office's key implementation partners in its expensive border, demining, and police projects.

The case of Davlatov's extrajudicial execution demonstrates a seeming lack of concern for human rights violations in Tajikistan on the part of the OSCE. The uncritical acceptance of the official government narrative on this case by the leadership of the OSCE Office supports this point: The annual address to the OSCE Permanent Council (PC) in May 2011 by the Norwegian Head of Mission, Ambassador Ivar Vikki, made no mention of the extrajudicial killing or even the mysterious circumstances surrounding the killings. Instead, Ambassador Vikki simply reported that Davlatov and his men had been killed during "military operations" in January 2011⁴² – in essence regurgitating the government of Tajikistan's lie back to the 56 participating States. The Office sided with the government despite the fact that credible allegations had existed for three months prior to Ambassador Vikki's PC speech, which made clear that Davlatov's death was not a result of a "military operation", a government raid, or combat, but that he was very likely "captured, tortured and executed".⁴³ Despite maintaining an expensive field office in the Ghardam region, where the fighting between the government forces and guerrillas took place, the Office is not known to have carried out any kind of investigation to seek out the truth of this and other similar incidents and rights violations by government security forces in that region or to have shared the results of any investigation with ODIHR (aside from compiling news reports readily available online in a "spot report"). According to Qayyum Yusuf, a prominent Tajik attorney, the video of Davlatov being abused by government agents perhaps only minutes or hours before his extrajudicial execution is "solid proof of violation of human rights in Tajikistan", which adds to the "lowering of [Tajikistan's] reputation in the international arena".⁴⁴

Conclusions

Politics and human rights have been largely stagnant in Tajikistan in the past few years, or have even deteriorated. Progress in these realms requires political will along with openness and equitable economic growth. The presence of the OSCE as an external actor can be both helpful and harmful. If the OSCE wrongly decides that its top priority is hard security and kowtows to

42 OSCE Office in Tajikistan, *Report of the Head of the OSCE Office in Tajikistan Ambassador Ivar Vikki to the OSCE Permanent Council*, 12 May 2011, PC.FR/12/11, 6 May 2011.

43 Economist Intelligence Unit (EIU), *Country Report Tajikistan June 2011*, cited above (Note 10).

44 Qayyum Yusuf, *Kafolati Huquqhoi ashkhoi baroi sodir kardani jinoyathoi terrorizm va ekstremizm mahkumshuda* [Legal Guarantees for those Convicted of Crimes of Terrorism and Extremism], Presentation at the Preparatory Human Dimension Implementation Meeting, Dushanbe, 22 July 2011.

the Tajik authorities while closing its eyes to flagrant violations of human rights, including extrajudicial executions committed by government organs that happen to be the beneficiaries of costly OSCE projects, and if the OSCE does not utilize its political leverage to lobby for reform in favour of the upholding of human rights, due process, political pluralism, and fulfilment of the many international commitments that Tajikistan has entered into, it will not only have failed the original intentions of this regional security organization, but will have set the stage for further abuses of rights, insecurity, and the degrading of OSCE's reputation in the eyes of both local and international observers. Though hard security has its place in the comprehensive security paradigm, what is grossly lacking in Tajikistan's case is respect for the "third dimension", without which there can be no future democratic, prosperous, and stable Tajikistan.

II.

Responsibilities, Instruments, Mechanisms,
and Procedures

Conflict Prevention and Dispute Settlement

The OSCE Mission in Kosovo: A Performance Appraisal

Yesterday, Today, and Tomorrow: A Play in Three Acts

Introduction

The Organization for Security and Co-operation in Europe (OSCE) continues to act as both a neutral watchdog and a tireless agent of change in Kosovo. While the OSCE Mission in Kosovo (OMiK) was deployed after the 1999 conflict to build institutions and help ensure adherence to standards of human rights and good governance, the Organization has been engaged in the region since 1992 to promote dialogue and monitor violations of human rights and fundamental freedoms.

At the turn of the decade, however, it is time to ask what has been attained and what direction the OSCE in Kosovo is going in. With both the NATO Kosovo Force (KFOR) and the United Nations Interim Administration Mission in Kosovo (UNMIK) progressively winding down their operations, the OSCE Mission is approaching crunch-time: Its original commitments and key strategies need to be re-examined.

This article therefore begins by reviewing some of the milestones in the fields of human rights standards, democratic institutions, and professional policing that have been reached during the first twelve years of implementation of the Mission's mandate. We find that, although the OSCE has made a remarkable contribution to the establishment of democratic institutions and the organization of democratic elections, a substantial share of its work took place at grassroots level. In the second section, the reader will be introduced to those areas where challenges persist, and on which the Organization is expected to concentrate in the future, namely: community rights, media and civil society, and community safety.

In summary, we wish to ask what tangible changes have been achieved in the last decade and when the OSCE will proclaim "mission accomplished".

Executing an Arduous Plan: From Ideas to Reality

The OSCE Mission in Kosovo was established by OSCE Permanent Council Decision No. 305 of 1 July 1999.¹ Its mandate referred to UN Security Coun-

Note: The views expressed in this article are the authors' own and do not necessarily reflect those of the OSCE.

1 Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 305*, PC.DEC/305, 1 July 1999, at: <http://www.osce.org/pc/28795>. The OSCE's en-

cil Resolution 1244 (1999)² and entrusted the Mission with the primary responsibility for institution- and democracy-building and human rights as a distinct but constituent component of UNMIK.³ OMiK's mandate focused on human resources and capacity building, including the operation of a police school and the training of judicial personnel; democratization and governance; the organization and supervision of elections; and finally, in co-operation with other relevant organizations, the monitoring, protection, and promotion of human rights.

This set-up allowed for flexibility with regard to an ever-changing environment in Kosovo: Initially OMiK would take the lead in establishing key democratic institutions such as the Kosovo Judicial Institute (KJI), the Central Election Commission (CEC), the Ombudsperson Institution, and the Kosovo Police Service School (KPSS). As part of this first phase of mandate implementation, OMiK successfully took the lead in the organization of several election cycles, improved the Assembly of Kosovo's fulfilment of its legislative and oversight functions, and monitored the provision of local services, particularly to non-Albanian communities. In the second stage, which is still ongoing, the Mission has concentrated on ensuring the sustainability of these democratic processes via capacity building and a series of targeted interventions at central and local level.

The following sections present the activities currently being carried out by OMiK in its three programme areas: human and community rights, democratization, and security and public safety.

Fostering Equity Law: The Human Rights Dimension

Judge Afrim Shala is [...] a first-generation graduate from the Kosovo Judicial Institute, the KJI, established by the OSCE Mission. Since his appointment as a judge in Gjilan/Gnjilane in November 2010, he has had a lot of work to do. Courts in Kosovo are overloaded with a backlog of cases, up to 2000 per judge, and Afrim has already attended to more than 100.

A short film released in 2011 introduces the work of the OSCE Mission in Kosovo with these exact words.⁴ Tasked with fostering institutions to promote democracy and human rights in Kosovo, OMiK established the KJI in

gagement in Kosovo has gone through several phases. OMiK is the fourth OSCE field presence to be deployed in Kosovo. Cf. Marcin Czapliński, The OSCE in the New International Environment in Kosovo, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2009*, Baden-Baden 2010, pp. 179-189, here: p. 180.

2 United Nations Security Council, *Resolution S/RES/1244 (1999)*, 10 June 1999.

3 The OSCE Mission is Pillar III of the four-pillar regime established under the UN Interim Administration.

4 Arben Llapashtica, *OSCE Mission in Kosovo through film*, at: <http://www.osce.org/kosovo/76495>.

1999 as the first independent, public, and professional judicial training institution within the Kosovo justice system. Seven years later, responsibility for the KJI was transferred to local institutions. In 2009 the KJI celebrated the graduation of 53 new judges and prosecutors, including Afrim Shala.

The Kosovo Law Centre (KLC, 2000), the Criminal Defence Resource Centre (CDRC, 2001), the Kosovo Chamber of Advocates (2000), the Ombudsperson Institution (2000), and the Kosovo Legal Aid Commission (2006) are all institutions that the OSCE has created, assisted in establishing, or actively supported throughout the twelve years of its mandate in Kosovo. Over the years, OMiK's role in the judiciary has ranged from institution building to capacity building of judicial staff, via training, monitoring, and reporting.

To maintain a vigilant presence, the OSCE has also developed a number of tools: OSCE advisors embedded in the KJI and the KLC, who regularly report on the implementation of their respective mandates; a longstanding engagement in monitoring of court cases (criminal, administrative, and commercial); subsequent issue-specific reporting by specialized units; and regular follow-up activities, including round-table events with relevant local and international stakeholders.

The OSCE has been committed since its conception to the protection and promotion of human and community rights as a founding principle with the ultimate aim of achieving "mutual respect and reconciliation among all ethnic groups in Kosovo".⁵ From human rights monitoring and reporting on the security and freedom of movement of vulnerable communities, to the return of displaced persons, the protection of religious and cultural heritage, and securing housing and property rights, the OSCE has spared no efforts in joining international key players in the shaping of relevant policies.

To achieve this, OMiK has built a network of regional centres throughout Kosovo, as well as over 30 field teams, which have helped the Mission to generate a high level of trust among all communities. The centres' specialized municipal teams advise on good governance principles and transparent decision-making processes, community participation, and increased accountability in municipalities. They maintain daily contact with local officials.

Community teams, on the other hand, check compliance with community-rights standards. As a result of their field outreach work, the enhancing of dialogue among ethnicities and between communities and municipalities has become a routine activity, or better still, a *modus operandi* of OMiK.

Making Democracy Happen

The OSCE faced a serious challenge: to create a democratic culture in Kosovo and lay the foundations of a viable society for all its residents. Its task

5 Permanent Council, *Decision No. 305*, cited above (Note 1), p. 2.

was therefore both massive and multi-faceted: to ensure the conduct of fair and free elections, to establish genuine political parties, to create an effective civil society, and to guarantee freedom of expression and of the media.

OMiK addressed these challenges at various levels. The Mission took the lead in organizing elections – it was the OSCE Head of Mission who originally chaired the CEC of Kosovo – while progressively building electoral-management capacity by providing guidance, training, and technical advice. The newly founded institutions, such as the Assembly of Kosovo, received foundational support from OMiK including material and technical assistance and the training of over 5,000 civil servants, which aimed to create an accountable and professional public sector. This vast capacity-building exercise was anchored by the establishment of the Kosovo Institute for Civil Administration (2000) and the Kosovo Institute of Public Administration (KIPA, 2003).

While its focus gradually shifted towards legislative oversight, the Mission supported the development of political parties and promoted the empowerment of various groups such as women and young people. In addition, civic initiatives were given space to develop to fulfil the potential of civil society in policy making, to contribute to multiethnic dialogue, and to achieve progress towards reconciliation.

The media sector, which had to be built from the ground up, was another area in which OMiK achieved notable milestones. Radio Television of Kosovo (RTK), the public broadcaster, KOSMA, a Kosovo-wide Serbian-language radio network, the Association of Journalists of Kosovo, and the Press Code for Kosovo can be listed among OMiK's major achievements as parts of its effort to guarantee freedom of expression.

The Institution of the Ombudsperson of Kosovo was established in November 2000 by UNMIK as the key guarantor of human rights. Its task is to receive complaints and independently assess alleged cases of human-rights violations. It has enjoyed the full support of the Mission from its inception, and has received assistance in the form of capacity building.

Security and Safety

Twenty-five kilometres north-west of Prishtinë/Priština, in the town of Vushtrri/Vučitrn, the Kosovo Centre for Public-Safety Education and Development (KCPSED) stands as one of the most prominent examples of the progress made by OMiK in its third programme area: security and public safety. A public centre equipped with up-to-date training facilities, technical equipment, and a modern management, it is a groundbreaking institution for the professional education of public-safety agencies. Each year, hundreds of participants receive professional training at KCPSED; the courses on offer range from general policing to specialized training on countering human trafficking, criminal investigation, and arrest and detention procedures.

The origins of the KCPSED as a modern police academy date back to the very beginning of OMiK's operation in 1999. Mandated to undertake "human resources capacity-building, including the training of a new Kosovo police service",⁶ the Mission was charged with the establishment and operation of a modern police-training centre that – in the aftermath of the conflict – was expected to contribute to the rapid deployment of new professional forces.

Shaping a post-conflict concept of police schooling in Kosovo meant combining an array of activities ranging from basic reconstruction and refurbishment of decayed buildings to the concrete designing and development of police-training programmes. Rising to this challenge, OMiK inaugurated the Kosovo Police Service School – the precursor of the KCPSED – on 6 September 1999. The school's initial offering consisted of a single basic police-training course, yet by 2005 it had reached its benchmark of 7,500 graduate police officers, and was serving up over 70 courses.

Following its handover to local institutions in 2006, OMiK continues to assist the KCPSED in tailoring advanced training courses with an emphasis on human rights, democratic policing, and police ethics, as well as supporting training needs analysis and the education of specialized units in tackling complex offenses such as cybercrime and narcotics trafficking.

As well as setting up the police school, OMiK became involved in developing other key components of the public-safety sector. It contributed to the development of a co-ordinated emergency-management system for Kosovo, engaged with fire and rescue services, and assisted specialized corps in combating organized crime and terrorism.

OMiK's contribution to the establishment of a post-conflict public-safety sector in Kosovo can be considered a success, and this seems to be reflected in the professional capacity of policing in Kosovo.

OMiK Quo Vadis? Building upon Achievements and Moving Ahead

This record of success is complicated by the need to ensure the sustainability of these democratic processes. The endeavours undertaken so far need to be translated into durable solutions. The scale of social exclusion across Kosovo society, the low number of voluntary returns, as well as recent reports on the deterioration of freedom of the media⁷ indicate that much remains to be done. OSCE field teams regularly report on property-related incidents, damage to return sites, and criminal assaults in ethnically mixed villages. Relations among local communities still experience setbacks.

⁶ Ibid., p. 1.

⁷ Cf. United Nations Security Council, *Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo*, S/2011/281, 3 May 2011, paras 37, 53, and 54.

What role will OMiK play in this? As noted above, over its twelve-year presence, much of OMiK's initial institution-building mandate has been fulfilled,⁸ and the ultimate goal of operations seems to be shifting from direct assistance to ensuring long-term sustainable processes. The best way for the OSCE Mission to accomplish its remaining tasks now is to address lasting human rights deficiencies, sharpen the oversight of institutional mechanisms, and strengthen interethnic safety mechanisms, at both central and local levels.

Despite the existence of modern judicial institutions, the performance of the judiciary continues to suffer from serious shortcomings in terms of compliance with international human rights standards in civil and criminal proceedings. As the European Commission reports, a "growing backlog of cases [... and the] perception of widespread corruption" are hampering "public confidence in the capacity, professionalism and fairness of the judiciary, thereby limiting effective access to justice".⁹ Court monitoring should therefore remain among OMiK's priority areas.

As signalled by the OSCE on various occasions, the number of voluntary returns of displaced persons to Kosovo is still generally low. Returns continue to be undermined by a widespread lack of funds and political will,¹⁰ as well as by a series of challenges on the ground, such as "real or perceived lack of security, access to public services, housing [...] and socio-economic opportunities".¹¹ The protection and promotion of cultural heritage, education, and participation in public life of all communities have been enhanced to some extent, as in the case of the reconstruction of Serbian Orthodox religious sites, or the translation of official documents into the official languages. Nevertheless, the absence of a list of protected cultural sites, the limited interaction between Kosovo Serb and Kosovo Albanian school pupils, and the failing access of non-majority communities to public services are problems that remain to be overcome. Proactive monitoring for compliance with community rights standards remains a preferred means of addressing these shortcomings. Equitable access to services, freedom of movement, and the sustainable return and reintegration of displaced and repatriated persons should represent a key programmatic focus for the Mission.

With regard to housing, "property cases continue to be the bulk of the civil cases backlog before the courts, including approximately 21,000 compensation claims".¹² Several key issues still remain unsettled. The situation is aggravated by the lack of an effective compensation scheme for unlawful occupancy as well as obstacles to the registration of property titles. The main

8 As noted above, the Kosovo Judicial Institute, the Ombudsperson Institutions, and the Kosovo Police Service School are among the most prominent examples of institutions handed over to local ownership.

9 European Commission, *Kosovo 2010 Progress Report*, SEC(2010)1329, Brussels, 9 November 2010, p. 14.

10 Cf. Organization for Security and Co-operation in Europe, Mission in Kosovo, *Communities Rights Assessment Report, Second Edition*, December 2010, p. 20.

11 Ibid., p. 18.

12 European Commission, *Kosovo 2010 Progress Report*, cited above (Note 9), p. 18.

activity in this regard is likely to remain monitoring and reporting to identify concerns and then advocating for appropriate interventions. In view of the poor progress that has been made in many of these areas, the Mission should continue to expand its efforts to promote the full protection of housing and property rights for all communities, in particular targeting displaced persons and vulnerable groups, as a prerequisite for a sustainable and stable society.

While the media landscape is now composed of a range of outlets providing varied information and programming, the OSCE Mission in Kosovo has repeatedly expressed its concern over various forms of pressure on journalists performing their duties. Particular attention was paid to “alleged attempts to unduly influence the editorial policy of media in general and of the public broadcaster in particular”.¹³ Additionally, the US-based watchdog Freedom House ranks Kosovo 104th of 196 in terms of press freedom, citing the use of threats and political pressure to prevent journalists from investigating high-risk subjects. Much work therefore remains to be done to ensure the sustainability and professionalism of media regulators as well as the equal representation of all communities by the public broadcaster. The OSCE has taken deliberate steps towards strengthening local safeguards and civil society, and is now helping these locally owned mechanisms in advancing the cause of freedom of speech and in developing local non-Albanian media.

Although the Mission has gradually phased down its civil society-development agenda, it should now refocus its efforts to engage civil society actors such as non-Albanian communities, women, young people, and marginalized social groups. Although several actors have started to participate in the process of allocating municipal resources, civil society still needs to enhance its role of governmental oversight and is not yet a fully fledged vehicle of change. To this end, the Mission is likely to continue to devote particular importance to the engagement of young people in decision-making and oversight mechanisms through coaching and capacity building in co-operation with other relevant international partners. Lastly, having started to refocus its parliamentary-support activities, the Mission should place more emphasis on increasing government accountability by improving legislative oversight and involving independent institutions such as the Independent Oversight Board for Civil Service of Kosovo (IOBCSK) and the Ombudsperson Institution.

In the area of security, the development of a fair, ethnically balanced, and reconciled public-safety sector remains uncompleted. There seems to be a need to boost the capacity of non-Albanian community police officers as a tool for interethnic reconciliation. This will require strong support at the grassroots level, as well as an increased number of police-public partnership initiatives.

13 Organization for Security and Co-operation in Europe, Mission in Kosovo, *Statement by OSCE Mission in Kosovo on World Press Freedom Day*, Prishtinë/Priština, 2 May 2001, at: <http://www.osce.org/kosovo/77283>.

To this end, the establishment of Municipal Community Safety Councils (MCSCs) and Local Public Safety Committees (LPSCs) in Kosovo since 2005 has aimed at increasing community involvement in joint police-municipality activities at local level. OMiK should therefore expand its outreach activities in the field of community safety by fostering the establishment and capacity building of new MCSCs and LPSCs in areas throughout Kosovo, regardless of their ethnic compositions. At the same time, it should continue to provide professional training, as its contribution to building local training capacities and its role in ensuring the quality of police education remain vital.

Conclusions

As the twelfth year of the OSCE's ongoing operations in Kosovo comes to a close, the OSCE Mission can look back on a number of successes. As illustrated above, OMiK has been effective in building core democratic and human rights-based institutions in Kosovo, as well as in successfully organizing several democratic election cycles. In a progressively changing environment, OMiK has adapted its focus as necessary to carry out its extensive mandate. Moreover, because of its substantial experience, the Mission has become a highly trusted international actor among all the local communities, who recognize the OSCE as a neutral, impartial, and reliable partner.

Nevertheless, the handover to local institutions has left considerable gaps. Challenges remain with reference to equitable access to services, participation, and ethnic representation in community policing. To fill these gaps, the OSCE should concentrate on monitoring and advocating non-majority rights, property rights, and community safety. The media sector, whose performance remains inadequate, should be further assisted to meet international standards.

But when will the job finally be done? And how can we make sure that it has been properly completed? As argued in this contribution, OMiK should now promote a long-term and sustainable multi-ethnic society, the further development of a viable and accountable democracy, as well as the full realization of human rights, community rights, and the rule of law. Based on its mandate, OMiK will continue to strive for the full respect of community rights and democratic principles, and for reconciliation and tolerance, to the benefit of all ethnic groups.

The OSCE's knowledge and experience can certainly play a role in achieving the desired results. The Organization's longstanding expertise may be transferred to local interlocutors and supporting partners in areas such as advocacy and strategic planning. Research and experience – including in project implementation – can be used to advocate within institutions in Kosovo for better policies, practices, and implementation.

This set of defined goals, coupled with the adoption of a clear implementation timeline, will help to ensure progress in the long term. Failure to meet international standards would not be only bad news for the development of Kosovo, but a failure of international engagement as a whole.

From Confidence Building to Conflict Settlement in Moldova?

On 5 November 2009, on the night before the first informal 5+2 meeting¹ following the replacement of the Communist government by the centre-right coalition “Alliance for European Integration” (AEI) in Chişinău, the Head of the OSCE Mission to Moldova facilitated a private meeting between the new Moldovan chief negotiator and his Transdniestrian counterpart in a Viennese restaurant. This meeting marked the beginning of a new phase in the Transdniestrian settlement process and the restart of genuine talks between the two sides after a period of six years. While, for the past two years, these talks have focused on confidence-building measures and the resolution of practical issues between the sides, they have established common ground that has enabled them to move on to official negotiations. This article looks into the prospects of moving from basic confidence building to genuine conflict settlement by analysing the enabling factors and stumbling blocks that are present today.

A Look Back

By November 2003, the Transdniestrian settlement process had turned from near-resolution into prolonged deadlock after a last-minute decision by Moldova’s then President Vladimir Voronin not to sign the “Kozak Memorandum”. This proposal was brokered by Dmitry Kozak, deputy head of the Russian presidential administration, whose involvement Voronin himself had requested.² Since then, all attempts to restart formal negotiations *on the future status of Transdniestria* have failed.

Some progress was made in September 2005 when the sides agreed, during consultations in Odessa, to invite the European Union (EU) and the United States (US) to participate as observers in the five-sided negotiations and to restart formal talks. However, the following four rounds of official negotiations in the new 5+2 format between October 2005 and February 2006

1 The 5+2, formally the Permanent Conference on Political Issues in the Framework of the Transdniestrian Settlement Process, includes representatives of the two sides in the conflict, Moldova and Transdniestria; mediators from the Russian Federation, Ukraine, and the OSCE; and observers from the European Union and the United States.

2 Cf. Claus Neukirch: *Managing the Crises – Restarting the Process: The OSCE Mission to Moldova in 2004/2005*, in: Institute for Peace Research and Security Policy/IFSH (ed.), *OSCE Yearbook 2005*, Hamburg 2006, pp. 139-153, here: pp. 139-140. For an in-depth analysis of the process surrounding the Kozak Memorandum, see William H. Hill, *Russia, the Near Abroad and the West. Lessons from the Moldovan-Transdniestrian Conflict*, Baltimore (forthcoming).

did not touch upon the future status of Transdniestria. Following the Moldovan Parliament's adoption of the Law on the Special Status of Transdniestria on 11 June 2005, the Moldovan side was empowered to discuss only issues related to the "democratization" and "demilitarization" of the region. The 2005 status law offers Tiraspol a limited autonomy similar to that of Gagauzia in southern Moldova and makes any settlement negotiations dependent on the prior "democratization" and "demilitarization" of Transdniestria.

On 27 February 2006, even these limited talks ended in deadlock, when the Moldovan chief negotiator walked out of the meeting. A few days later, on 3 March 2006, the Ukrainian customs service began to implement new rules agreed in a Joint Declaration on Customs Procedures signed by the Ukrainian and Moldovan prime ministers on 30 December 2005. Under the new procedures, all goods from Transdniestria crossing the Moldovan-Ukrainian state border are checked by Ukrainian customs for valid Moldovan customs documents, which means that Transdniestrian enterprises not registered with Moldovan authorities cannot export their goods. The Transdniestrian side cancelled its participation in the 5+2 meeting scheduled for 14 April, and made its return to the negotiations conditional on the lifting of what it called an economic blockade of Transdniestria.

The new regulations were certainly not to the liking of the Transdniestrian leadership, as they forced Transdniestrian enterprises to register with Moldovan central authorities to do business. However, they did not amount to an economic blockade and in fact stimulated Transdniestrian exports. The OSCE Mission to Moldova, which monitored the availability of goods in the region intensively, found neither shortages of any goods nor any increase in prices. The new rules did not stop the direct importing of goods across the Transdniestrian segment of the Ukrainian-Moldovan border, where Moldova has no control at all, and they did not prevent exports either. By the end of 2011, over 750 Transdniestrian enterprises, including the region's main exporting companies, were registered with the Moldovan authorities. These enterprises can not only export their goods; they can also profit from the asymmetric trade preferences that Moldova negotiated with the European Union. Given the start of talks between Moldova and the EU in 2011 on a "Deep and Comprehensive Free Trade Agreement", the potential benefits for registered Transdniestrian companies are likely to grow even further.

After Moldova hardened its starting position in June 2005 by adopting the status law, which its parliament can amend only with a 3/5 majority, Tiraspol held a referendum in September 2006 asking people whether they (1) "support the course of independence for the Transdniestrian Moldavian Republic and subsequent free accession to the Russian Federation by Transdniestria" or (2) whether they "consider possible the rejection of the Transdniestrian Moldavian Republic's independence with subsequent incorporation into the Republic of Moldova". Just as the Moldovan law was

adopted virtually unanimously (one lawmaker voted against, claiming that the law granted Transdniestria too many rights), the Transdniestrian voters, following an aggressive, one-sided campaign, overwhelmingly voted for independence and subsequent union with Russia.

With both sides having enshrined their maximalist positions and having set a variety of preconditions for official status talks, the Transdniestrian settlement process had clearly hit rock bottom in 2006.

Confidence Building

In the absence of common ground for constructive discussions on the status question, and in light of the problems affecting the daily life of people on both sides of the river, the sides – and the OSCE Mission to Moldova – began to concentrate their efforts on promoting confidence- and security-building measures – both as a means of tackling the issues at hand and to prepare the ground for genuine negotiations.

In 2004 and 2005, the Mission, with the support of Russian and Ukrainian experts, had worked out a set of proposals for confidence- and security-building measures (CSBMs) in the military sphere. Following President Voronin's October 2007 proposal to the Transdniestrian side that the parties establish Joint Expert Working Groups on Confidence-Building Measures (CBMs), including social issues and infrastructure development, the Mission used its CSBM package as a platform for broader work on confidence-building measures.

On the margins of a Mission-organized CSBM seminar in Odessa on 23 October 2007, the full 5+2 met informally over a working dinner and discussed, among other things, the possible co-operation of both sides on confidence-building measures. The dinner at the Mission's CSBM seminar was the first time since February 2006 that the 5+2 had sat around the same table. The next time the 5+2 came together was again in Odessa and again informal, this time on the margins of a Mission-sponsored seminar in April 2008. In December 2008, the 5+2 met for the first time at a stand-alone meeting not linked to another event. It took another year until informal 5+2 meetings became regular and independent of other events, and another two years until they became official again (see below).

In parallel to the modest progress of the 5+2, the confidence-building track begun in autumn 2007 developed further, at least at first. On 31 October 2007, the Moldovan government moved to create eight working groups tasked with elaborating specific projects to implement President Voronin's initiatives on confidence building. On 13 December 2007, the Moldovan side sent the mediators, observers, and the Transdniestrian side a draft list containing 128 issues divided into 31 chapters that the sides might discuss in the eight working groups. So far, however, these were Moldovan working

groups; the Transdnistrians had not agreed to create their own groups to participate, and were suspicious of what they saw as acceding to the fiat of Voronin.

It took Chişinău and Tiraspol until April 2008 to agree on establishing Joint Expert Working Groups on CBMs to discuss confidence-building measures in areas such as health and social protection, education, economics and trade, infrastructure, and the environment. Between April 2008 and July 2009, 15 meetings of five different working groups took place at the Mission offices in Chişinău, Tiraspol, and Bender. However, these meetings were sporadic and did not evolve into a continuous process – the sides met only when they needed to demonstrate their goodwill towards the international community – and did not produce concrete results.

The situation improved following the change of government in Chişinău in September 2009, which brought along a shift in attitude. The new Moldovan government under Prime Minister Vlad Filat and its new chief negotiator Victor Osipov took a pragmatic, process-oriented approach to the Transdnistrian issue, focusing on resolving practical issues and avoiding the escalation of small incidents. During the informal 5+2 meeting in Vienna on 6 November 2009, Osipov and his Transdnistrian counterpart Vladimir Yastrebnchak agreed to hold regular bilateral meetings to resolve problems that affect the lives of people on both banks of the river and erode confidence between the two sides. One purpose of this channel is to give political impetus to the Joint Expert Working Groups on CBMs, which function only on a technical level and stall whenever they come up against a political problem. The first official bilateral meeting between Osipov and Yastrebnchak took place on 27 November 2009 in the Mission's office in Bender, and a second followed on 26 January 2010 in the Mission's office in Chişinău. Osipov met with Yastrebnchak in 2010 four more times officially and at least three times for informal tête-à-tête meetings. However, the frequency of contact in the 1:1 channel at this level slowed down significantly in 2011, which saw, besides several encounters in larger formats, only two official meetings between Yastrebnchak and Osipov's successor Eugen Carpov.

On 8 February 2010, Osipov and Yastrebnchak met together with the co-chairs of the Joint Expert Working Groups on CBMs in the Mission's Tiraspol office. During this meeting, the sides agreed to restart meetings of these groups, including one newly established to deal with law enforcement co-operation. In February 2010, the Joint Expert Working Groups on Law Enforcement Co-operation; Humanitarian Aid; Railways, Road Transport and Infrastructure; and Agriculture and Ecology met for the first time since the change of government in Chişinău. Meetings of the Joint Expert Working Groups on Economy and Trade and Health and Social Issues followed later that year. As the process went on, the groups diversified and new ones were created in response to the emergence of important issues. As of November 2011, the process includes a separate sub-group on railway issues that in-

cludes customs experts, a sub-group on telecommunications, and a Joint Expert Working Group on Civil Status Documents. In 2010 and 2011, the Joint Expert Working Groups on CBMs held more than 20 meetings, all in a constructive atmosphere devoid of political wrangling.

Prime Minister Filat and Transdniestrian leader Igor Smirnov met twice in 2010 on the sidelines at Europa League football matches in Tiraspol and again in July 2011 at the Moldovan cup final. Building on this “football diplomacy”, the two met on 9 September 2011 in Bad Reichenhall (Germany) on the margins of a CBM conference organized by the Mission with the support of the Lithuanian OSCE Chairmanship and the German Foreign Office. On 21 November 2011, they finally met in the OSCE premises in Bender for a stand-alone meeting that was not connected to any other event. These high-level meetings gave additional impetus to the confidence-building process and the overall attempt to reach a settlement: Bad Reichenhall was essential to the 5+2’s decision in Moscow two weeks later to resume official negotiations; and the Bender meeting cleared the way for the first official 5+2 meeting in Vilnius on 30 November and 1 December. The constructive atmosphere between the two chief negotiators and the direct contact between the leaders of both sides helped to bring progress on several fronts:

- In 2009, 2010, and 2011, Smirnov prolonged – each time for one year – the mechanism mediated by the Mission in 2006 that allows farmers from Moldovan-controlled villages on the left bank to cultivate agricultural lands under Transdniestrian control.
- On 24 December 2009, the Moldovan government extended indefinitely the arrangements under which Transdniestrian companies can register as Moldovan companies and take advantage of autonomous trade preferences granted to Moldova by the European Union.
- On 29 December 2009, the Moldovan government prolonged for an indefinite period the mechanism for issuing free identity cards and passports to all residents of the Transdniestrian region eligible for Moldovan citizenship. Until then, the mechanism for applying for free passports expired every year and was regularly extended at the beginning of each year.
- The Moldovan government officially requested that the EU suspend its ban on issuing visas to certain Transdniestrian leaders. The EU complied with this request.
- On 1 October 2010, the Chişinău-Tiraspol-Odessa passenger railway line reopened. It had been closed since March 2006.
- As of 1 January 2011, registration fees for “foreign” (including Moldovan) citizens visiting the region are no longer levied by the Transdniestrian migration authorities.
- On 9 September 2011, Filat and Smirnov signed a statute for the Joint Expert Working Groups on CBMs, stipulating, *inter alia*, that the groups

should meet at least once every two months. Their meeting was also instrumental for the agreement reached at the informal 5+2 meeting on 22 September in Moscow to resume official 5+2 negotiations.

- In Bender on 21 November 2011, they agreed that official 5+2 talks should continue regularly after the first meeting in Vilnius on 30 November.

In other areas, first steps were taken but suitable solutions have not yet been found:

- Phone connections: In July 2010, the Moldovan and Transdniestrian sides commenced expert negotiations on the re-connection of landline telephone services. These talks went well in their early stages but later stalled.
- Railway freight traffic: In September 2010, the Moldovan government made a decision to introduce simplified regulations for the export of goods from Transdniestria by rail. As of November 2011, however, the decision has not entered into force. Moldovan and Transdniestrian railway and customs officials started to discuss what needs to be addressed for a full resumption of railway freight traffic through Transdniestria during the CBM conference in Bad Reichenhall and convened for a first trilateral meeting with the EU Border Assistance Mission on 11 November in Odessa.
- Removal of pesticides: In June 2011, the two sides agreed to look into proposals from the OSCE Mission to repack and remove pesticides stockpiled in Transdniestria. As of November 2011, no final agreement on this project has been reached.

A series of other issues, especially with regard to freedom of movement, have been discussed, but no tangible progress has been achieved. As a result, Moldovan parliamentarians and government representatives are banned from entering Transdniestria, while Transdniestrian officials such as the “interior minister”, with whom the Moldovan side otherwise seeks co-operation, are the subject of outstanding arrest warrants in Moldova and thus effectively unable to cross the Dniestr.

The Mission continued to support the confidence-building process throughout 2010 and 2011 by providing shuttle diplomacy and looking into solutions for specific issues, such as the delivery of radioactive isotopes to a Tiraspol hospital for cancer treatment, and by organizing workshops that bring together representatives of the sides in specific areas such as law enforcement, disaster relief, the armed forces, environmental agencies, and others to discuss issues of mutual concern and possible co-operation on resolving them. In November 2010 and September 2011, the Mission held two conferences on CBMs in Germany, bringing together the chief negotiators

and the co-chairs of the Joint Expert Working Groups on CBMs to review the progress made and to look into ways to move things forward.

These activities, as well as Mission support for grassroots initiatives such as music concerts, workshops, and summer schools that bring people from both banks of the river together, aim to strengthen the contacts between the two sides at all levels (grassroots, working level, leaders) and help them to find workable solutions to issues resulting from the prolonged de facto separation. However, as a mediator and facilitator, the Mission cannot and has never intended to impose solutions on the two sides.

On balance, despite the efforts of the Mission and its partners in the settlement process, the confidence-building process which started off well in late 2009 and early 2010 has not moved much further in 2011.

Chişinău remains preoccupied with its internal political crisis and Transdnistria, too, has entered a phase of prolonged instability. The quasi-continuous election campaign on the right bank (parliamentary elections in April 2009, July 2009, November 2010, and possibly again in early 2012, a constitutional referendum in September 2010, and local elections in June 2011) not only limits the attention Transdnistrian issues receive from high-level politicians, but also limits the government's room for manoeuvre to take difficult, potentially controversial decisions. At the same time, a tug of war is ongoing between the elites in Tiraspol, which reached its climax with the Transdnistrian "presidential elections" in December 2011 and which likewise limits the chances for the bold moves needed to break the current deadlock.

From Vienna to Vilnius – Getting from Informal to Official Talks

During their informal meeting in Vienna in March 2010, the 5+2 agreed to hold regular and more frequent meetings: no less than once every three months. They also agreed to the objective of holding official 5+2 negotiations by the end of the year. While the 5+2 met five times in 2010, the goal of re-starting official 5+2 negotiations was not achieved in that year. At a meeting in Moscow on 22 September 2011, the 5+2 agreed to resume official talks; and only on 30 November 2011 did the 5+2 in fact meet for an official meeting in Vilnius.

Instead of discussing status issues, the 5+2 concentrated, during 2010 and 2011, on issues related to freedom of movement, as suggested by the Moldovan side, and on guarantees for existing agreements, as suggested by the Transdnistrian side. To support these talks, the Mission circulated a matrix summing up the various issues as they exist today between the two sides with regard to freedom of movement for people, goods, and services. The Mission also worked with both sides to draw up an overview of agreements previously signed, and organized an expert seminar on guarantees in co-

operation with the UK Embassy in Chişinău. While the atmosphere at the informal 5+2 talks was constructive, and the regular dialogue at this level was another element that contributed to the resolution of practical issues, agreement on the restarting of official talks was still difficult to reach.

The first serious attempt to move from informal to official talks was made on 21 June in Moscow. In comparison to the previous rounds of informal talks, which centred on other issues, the Moscow meeting was designed specifically to reach an agreement on the resumption of official negotiations. Everyone knew that this would not be easy: Tiraspol had made it clear from the beginning that, from its perspective, the time was not ripe for official negotiations, as many of the existing practical issues, such as the railway question, had not been resolved. At the same time, Chişinău emphasized that status negotiations could be conducted only on the basis of Moldova's territorial integrity and sovereignty. While *all* mediators and observers have stated on numerous occasions that they aim to find a solution on the basis of Moldova's territorial integrity, and although Moscow in particular made this point in public, Tiraspol was clearly not ready to sign off on this principle at the very start of official talks. The Mission has argued that any attempt to put any final goals in a statement meant to mark the start of negotiations will effectively block the resumption of official talks.

In the run-up to the Moscow meeting, the Russian negotiator attempted to broker a deal on a statement outside the format of mediators and observers, leading to a multiplication of competing drafts, each acceptable to one side or the other, but not to both. This resulted in a failure to agree on which text was to serve as the basis for negotiations.

The differences between the sides were not resolved during the one-day meeting in Moscow, and the meeting was suspended under a "stopping the clock" procedure after several hours of discussion and a number of phone calls, "in order to allow participants in the 5+2 format to consult in their respective capitals [...] The meeting will be continued without preconditions in Moscow at a point in time to be agreed."³

The solution that was found when the clock started running again in Moscow on 22 September was simple: In a short declaration bearing no signatures, the 5+2 agreed to resume official negotiations, and left it for the first official meeting to discuss principles and an agenda for the official negotiating process.

It took a visit of the 3+2 (the mediators and the observers) to Chişinău and Tiraspol at the beginning of November to come to an agreement on when and where to meet (30 November in Vilnius). Thus, the resumption of official talks was, while difficult, finally achieved in 2011. Whether this means that the sides have come closer on any of the issues discussed before and during the first Moscow meeting is, however, a totally different question.

3 OSCE Chairmanship, Press Release, *Discussions on Transnistrian settlement held in Moscow*, Moscow, 21 June 2011, at: <http://www.osce.org/cio/78859>.

Starting with the re-establishment of regular contact between the two chief negotiators in late 2009, the Transdniestrian settlement process has slowly got back on track. Since then the sides have (re-)built a multi-level network of contacts, ranging from issue-focused expert-level talks on railway issues and telecommunications, to formal meetings in the Joint Expert Working Groups on CBMs, formal and informal meetings of the two chief negotiators, and meetings between the leaders of the two sides.

While the meetings of the 5+2 between March 2006 and November 2011 were “informal”, they were regular, stand-alone meetings with a clear agenda. In essence, the ten informal 5+2 meetings that took place between November 2009 and September 2011 were better structured and more constructive than any of the formal five-sided or 5+2 meetings held after the failure of the Kozak Memorandum. The Vilnius meeting of 30 November 2011, too, did not discuss status issues but concentrated on principles and procedures for the 5+2 talks. The next meeting, envisaged for February 2012 in Dublin, will continue the Vilnius discussions on working procedures, and prospects for the resumption of status negotiations are still bleak.

Nevertheless, the progress made in 2011 makes a difference. To move the process forward it was essential to shift from informal to official 5+2 meetings and from the informal “football diplomacy” to official meetings between the leaders of both sides. While informal meetings can prepare the necessary groundwork, they can by definition not produce any agreements. The statute for the Joint Expert Working Groups on CBMs is a case in point. The two chief negotiators had agreed on most of the text of a statute for these working groups by the time of an informal 5+2 meeting in Kiev in November 2010, and agreed on a complete text in a follow-up meeting in Chişinău between the two political representatives. However, this agreement was not reflected in a protocol or by an initialled text. In March 2011, in the absence of such an agreement, the Moldovan side tabled a significantly revised version of the statute which was immediately rejected by Tiraspol. It was only during the Smirnov-Filat meeting in Bad Reichenhall that this basic document was finally agreed.

While the 5+2 have reconvened officially after an almost six-year hiatus, they have not yet started to discuss status issues again. There are several enabling factors present today that make the resumption of official *settlement negotiations* (as compared to official 5+2 meetings talking about everything but Transdniestria’s future status) a realistic goal – but there are also several stumbling blocks to be cleared and pitfalls to avoid.

A key enabling factor at present is the new dynamism in the EU-Russia dialogue on Transdniestrian issues, and the special interest of Germany in making the Transdniestrian settlement a successful example of EU-Russian co-operation. In June 2010, German Chancellor Angela Merkel and Russian President Dmitry Medvedev proposed in the “Meseberg Memorandum” that the possibility of establishing an EU-Russia Political and Security Committee at ministerial level should be explored.⁴ According to the Meseberg Memorandum, this committee should be tasked *inter alia* with EU-Russian co-operation aimed at achieving a resolution of the Transdniestrian conflict. Since this memorandum was adopted, the Transdniestrian issue has received a degree of attention it has never enjoyed before – not in Western Europe at any rate. During the French-German-Russian Summit in Deauville in October 2010 and the EU-Russia Summit in Nizhny Novgorod in June 2011, Transdniestria was again a high-level topic.⁵ The interest in this issue, especially that shown by Germany, has been highlighted further by the intensification of contact between senior officials from the German Foreign Office and Chancellery and both the Moldovan government and the Transdniestrian authorities. Germany has also made Transdniestria a permanent topic of discussion with the Russian Federation, and in spring 2011 shared its view on the basic principles for a settlement with Moscow in a non-paper.

While there is so far no agreement within the EU on whether, and if so when to establish the proposed EU-Russia Political and Security Committee, the EU itself has taken on the Transdniestrian issue with the Russian Federation.⁶

This continuous high-level attention and the link between the specific Transdniestrian conflict and the broader EU-Russia security dialogue have brought pressure from Moscow, Berlin, and Brussels to induce actors in Chişinău and Tiraspol to move ahead. The EU can offer both sides attractive incentives: Moldova has entered into negotiations on visa-free travel and a deep and comprehensive free trade agreement – if these negotiations succeed, they might also offer new opportunities for Transdniestrian residents who are eligible for Moldovan citizenship and for Transdniestrian companies, many

4 Cf. *Memorandum (Meeting of Chancellor Angela Merkel and President Dmitri Medvedev on 4-5 June 2010 in Meseberg)*, at http://www.bundesregierung.de/nsc_true/Content/DE/_Anlagen/2010/2010-06-05-meseberg-memorandum,property=publicationFile.pdf/2010-06-05-meseberg-memorandum.

5 See *Statement for the France-German-Russia Summit in Deauville (18-19 October) (final)*, at: http://www.bundesregierung.de/nsc_true/Content/DE/_Anlagen/2010/2010-10-19-erklaerung-gipfeltreffen-deauville-eng,property=publicationFile.pdf/2010-10-19-erklaerung-gipfeltreffen-deauville-eng; *Remarks by Herman Van Rompuy, President of the European Council at the press conference following the EU-Russia Summit, Nizhny Novgorod, 10 June 2011, PCE 0146/11*, at http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/122555.pdf.

6 See Nicu Popescu, *EU Foreign Policy and Post Soviet Conflicts: Stealth Intervention*, London 2011, pp. 38-65.

of whom trade primarily with the EU. The EU has also earmarked 40 million euros to spend on confidence-building projects over the next three years. Most of these investments are likely to benefit Transdniestria.

A second enabling factor is represented by the increased interest shown by Kiev in playing a more active role in the Transdniestrian settlement process. Following the consolidation of Viktor Yanukovich's government, and with the 2013 OSCE Chairmanship in its sights, Ukraine is now prepared to become more active and to support working towards the resolution of the Transdniestrian conflict in co-operation with its main partners, Russia and the EU.

A third enabling factor is represented by the pragmatic attitude of the current government in Chişinău and the new Transdniestrian leadership. By engaging in a constructive dialogue with Tiraspol and not responding to provocations from hardliners on both sides, the government in Chişinău has helped to keep the process on track over the last two years. More importantly, Chişinău signalled greater flexibility on the status question in a non-paper distributed in May 2011. At the same time, the previous Transdniestrian chief negotiator did good work in minimizing the negative impact of hardliners on his own side. The newly elected Transdniestrian leader, Evgeny Shevchuk, and his new chief negotiator are both known to be pragmatic and interested in finding solutions that would improve living conditions for people on the left bank.

A fourth enabling factor is represented by the ongoing reform process in Moldova. With Chişinău advancing internal democratic reforms and coming closer to the EU – especially with key agreements on visa liberalization and deep and comprehensive free trade on the horizon – Moldova is at last becoming more attractive for Transdnistrians. The question of whether to join Russia or Moldova posed by the 2006 referendum in Transdniestria sounded like asking people whether they want to be healthy and rich or sick and poor. In 2011, the perspective has been reversed, and today one could ask Transdnistrians whether they would like to live in a non-recognized pseudo-state that does not issue valid travel documents or in a country on its way towards EU integration. However, with a new, young leader in Tiraspol who aims to introduce reforms on the left bank, too, Chişinău has to ensure that the reform process produces tangible results in order to maintain this dynamic.

Stumbling Blocks and Pitfalls to Avoid

The main stumbling blocks for the final settlement of the Transdniestrian conflicts remain the lack of interest in compromise on the part of the political elites and the populations on both sides. The only driving factors for compromise at this stage are therefore coming from outside, which creates dangerous pitfalls.

The first stumbling block is the continued hardline position taken by Tiraspol. The political and economic elites in Tiraspol still see their interests safeguarded better under the status quo than in a still-to-be-defined autonomous region within Moldova. For Smirnov and the people around him, the status quo has always been a better option than any negotiated agreement tabled so far (including the Kozak Memorandum, which he was pressured into accepting in 2003). Even with Smirnov gone, there is no guarantee that Tiraspol's starting position on the status question will change dramatically. While Shevchuk and his team are likely to be more open and pragmatic towards the solution of practical issues, he too supports Transdniestrian "independence".

The second stumbling block for the settlement process lies in the limited political will in Chişinău to move towards a compromise solution. Chişinău is currently unlikely to offer more to Tiraspol than an autonomy solution similar to the Gagauz model – a variant void of any attraction for the left bank. Neither the political elite, nor civil society, nor the broader population are prepared to offer more. In fact, some of the most vocal hardliners can be found among civil society leaders, and society at large is not prepared to accept – nor have its leaders prepared it to accept – any compromises with regard to Transdniestria. The communist opposition is ready and able to seize on any controversial decision by the ruling coalition, which is fragile and might soon face another round of elections. Under these circumstances, the room for manoeuvre for those in the government who are prepared to invest in compromise for the sake of settlement remains extremely limited.

Another related problem remains the limited capacity of the Moldovan side to provide sustainable, quality input to the confidence-building and wider settlement processes. The Moldovan representatives in the Joint Expert Working Groups are often too preoccupied with their internal reform and EU integration agenda to pay the necessary attention to topics discussed in these groups. The Bureau for Reintegration still lacks the necessary analytical and organizational capacity. This limits the dynamism of the process and makes it easier for the Transdniestrian side to delay issues they are less eager to discuss and to raise complaints about the slowness of the process with regard to issues they are more interested in.

After agreement has been reached on the resumption of official negotiations, the next challenge is to craft an agenda that will bring the process forward. As mentioned above, the interests of Tiraspol's elite are concentrated on the preservation of the status quo, not on settlement. Accordingly, their starting position for negotiations is "to talk about a civilized divorce". At the same time, Chişinău promotes a settlement based on the 2005 law offering Transdniestria autonomy. Accordingly, Chişinău wants to talk about "reintegration" based on the "territorial integrity of Moldova". International support for the bare bones of this position notwithstanding, this remains an obvious non-starter for Tiraspol, especially when devoid of any specific

offers on delimitation of competencies. Given these diametrically opposed starting positions, any attempt to jump-start status talks without appropriate preparation risks derailing the entire process – a point sadly underscored by the meeting in Moscow on 21 June. Even if both sides sit down at the table to discuss the possible future status of Transdniestria in a constructive manner, talks will be difficult.

With a lack of driving force for compromise from the parties themselves, influence wielded by their main partners, notably the EU and Russia, will be crucial for moving the process ahead. In order to bring about a lasting settlement, however, it will be necessary to bring both Chişinău and Tiraspol on board. In addition, the EU and Russia have very different views about how the final settlement should look – and so might Ukraine (which is about to raise its profile in the talks) and the United States (which although relatively low-key at this stage, has certain positions on security arrangements that need to be taken into account).

In Lieu of A Conclusion: A Look Ahead

With a breakthrough in the Transdniestrian settlement process clearly not in sight, the question is what can be done down the road to prepare for a settlement in the longer term.

The goal for 2011 was to reach an agreement on the resumption of official 5+2 talks. This was achieved in Moscow on 22 September, and the first official meeting took place on 30 November/1 December 2011 in Vilnius.

The aim after official resumption is now to continue official 5+2 meetings according to a regular schedule and with meaningful agendas. The first meeting discussed principles and procedures for the negotiations. While good progress was made in Vilnius in this respect, some difficult issues remained unresolved. The experience of the preparations for the first Moscow meeting suggests that agreement on principles will be extremely difficult to reach, so this agenda item is likely to remain relevant for future meetings, too. Given the good track record of previous informal meetings, it would be advisable to include items discussed in the informal talks in the official meetings. Freedom of movement and guarantees should remain part of the agenda, as should the regular revision of progress made in the framework of the Joint Expert Working Groups on CBMs. Finally and most importantly, agreement should be reached on resuming discussions on the status of Transdniestria. In order to make this happen, it will be important for all sides to drop preconditions for the resumption of an exchange of views on this topic, including limiting the discussions on “relations between two states”, “reintegration” or “Transdniestria’s status within Moldova”. It is understood that all partners in the 3+2 support the territorial integrity of Moldova, and that meaningful

status discussions will have to move in this direction. But putting the issue on the agenda in a pre-defined way will not help to make this case.

Finally, the 3+2 should aim to agree on a joint proposal for a comprehensive Transdniestrian settlement. Such a proposal would need to be elaborated in continued consultations with both sides, aimed at sounding out their main interests and red lines. The 3+2 would also need to prepare political elites, civil society, and the population as a whole for a constructive discussion on the settlement, using closed meetings, debates, and workshops. The proposal should be submitted to the parties and discussed within the 5+2 and possibly with expert committees after there has been agreement among the 3+2.

The settlement plan should avoid using labels such as “autonomy”, “federation”, “common state”, etc., but concentrate instead on the delimitation of competencies, guarantee mechanisms, and a road map for implementation. The latter two should be taken seriously. Up until now, the draft settlement plans worked out within the Transdniestrian settlement process have consisted of a few pages outlining power-sharing mechanisms and the division of competencies. While this is certainly the heart of every settlement, there is a need to recognize that the devil is generally in the detail, and the details need to be addressed. The Annan Plan for Cyprus and the Ahtisaari Plan for Kosovo show that a comprehensive settlement arrangement, including annexes, is likely to have tens or hundreds of pages ruling on matters of detail that might become bones of contention during the implementation phase. In the case of Transdniestria, issues such as the reintegration of the security forces, the justice systems, and the need for appropriate electoral or party legislation – to name but a few – certainly need detailed agreements as part of the final settlement. While there has so far been no serious work on this issue, the Joint Expert Working Groups on CBMs could serve as a platform to think about some of these issues, too, when time is ripe.

Police Development Activities of the OSCE in Armenia

Introduction

The police are the most visible manifestation of government authority responsible for public security, and their performance will therefore directly influence perceptions of the government in question and how the country as a whole is run. This article, belatedly dedicated to the tenth anniversary of the OSCE Office in Yerevan, which was celebrated in 2010, strives to highlight one of the major objectives of the Office's activities during those years: helping Armenia to modernize its police service and transform it into a genuine service to the public that is run in a transparent and accountable manner.

Since independence, the Armenian police have suffered from many of the ills that plague all police structures in the former Soviet Union: a high degree of centralization and hierarchy, a deficiency in the application of human rights standards in all spheres, and a rigid educational structure that over-emphasized legal expertise while devoting little attention to practical skills and basic public order-management standards. The police also suffered from a lack of funding and access to international best practices and assistance. Far from being an impartial provider of safety and security to citizens, the police were regarded by many as an instrument and extension of governmental power. Actively and in close co-operation with the police, the OSCE has striven to address some of these problems in the knowledge that such processes take time. Changing the mentality of an entire organization is never easy and cannot be achieved overnight, especially in the field of law enforcement. In addition, it often meets with only limited success or indeed failure, even in more developed democracies, where the prerequisites for change are far more readily available in the form of a relatively well-paid, trained, and motivated workforce. In Armenia, there is the added difficulty of the continuing conflict over Nagorno-Karabakh which – if the worst comes to the worst – could lead to parts of the police force being deployed in a military role. This naturally influences the way the police see themselves and are regarded by others.

In Armenia, the activities of the OSCE and the Office in Yerevan have always been welcomed by the authorities and have over the years generated a high degree of mutual trust and co-operation between the OSCE and the police that bodes well for the future. As the Armenian police move from merely receiving police assistance, towards actively pursuing police reform, the Office believes that it is well-placed to carry on playing a key role in advocating positive change, in helping to draft policies, and in operational im-

plementation. At the same time, this article can probably serve as an example of how a small OSCE field presence has tried to fulfil its mandate in a challenging environment and with limited means at its disposal. It is up to the reader to appraise the level of success it has managed to achieve.

Laying the Groundwork, 2003-2004

Co-operation in the field of law enforcement has long been an OSCE task under the politico-military dimension and has been greatly enhanced at operational level since the establishment of the OSCE field missions. The OSCE Office in Yerevan was established by a decision of the OSCE Permanent Council in 1999 and commenced operations in February 2000. The Bucharest Ministerial Decision on Police Related Activities from December 2001 gave the OSCE the mandate to engage with participating States in improving democratic policing practices. The appointment in 2002 of a Politico-Military Officer to the Office in Yerevan and the founding of the Strategic Police Matters Unit (SPMU) at the OSCE Secretariat in Vienna also enhanced the Office's capacity for assisting the host country. In practical terms, the OSCE's police assistance activities started with the visit to Armenia by the OSCE Senior Police Adviser in June 2003 and the ensuing needs assessment that same year. The co-operation with Armenia on police matters by the SPMU and the Office began at a time of rapidly expanding OSCE involvement in law enforcement co-operation with many newly-independent countries of the former Soviet Union. In the course of 2003 and 2004, concurrently with Armenia, OSCE police assistance programmes were drafted for Azerbaijan and Georgia – on the basis of assessments that unsurprisingly revealed similar needs.

In Georgia, the Rose Revolution of November 2003 precipitated a complete and largely autonomous overhaul of the Georgian police by the government. The police were reorganized along the lines of a patrol police and the OSCE community-based approach to policing did not naturally comply with what the Georgian authorities had in mind. The presence of many donors and an abundance of material support for the Georgian police reform, notably from the US government, also resulted in a less visible role for OSCE police assistance, which came to a complete stop after the closure of the Mission to Georgia in June 2009. In Armenia and Azerbaijan, however, the OSCE was able to set the agenda jointly with their local counterparts and serve as the main international source of police assistance. In Armenia, the initial years of police assistance saw the SPMU as the brains and initiator of activities, drafting projects, having an important say in the hiring of experts, and overseeing project implementation. Until 2006, the SPMU was in charge strategically while the Office in Yerevan played more of a supporting role by

hiring staff, announcing tenders, concluding contracts, and handling the overall day-to-day running of the projects.

The Armenian Police Assistance Programme consisted of activities to launch the community-based policing model and to improve police education by incorporating human rights modules and renovating police training facilities. These elements were more or less common to all OSCE police assistance programmes and stemmed from the need for greater public involvement in policing, on the one hand, and the training of police officers to higher standards, on the other. A peculiarity of the Armenian programme was that the educational component was aimed at the police school (called the Training Centre in Armenia). In post-Soviet police education systems, police schools educate non-commissioned officers, while commissioned officers are trained at police academies. In Armenia's case, the reason for targeting the Police Training Centre rather than the Police Academy – which would presumably have been more effective, and therefore made more sense, because it would have influenced future decision-makers – was that the leadership of the Police Academy was not considered particularly reform-minded. This could not be said of the Head of the Police Training Centre, who embraced new ideas and approaches from the very beginning. The problems were similar at both institutions, however. The recruitment system did not fulfil its aim of recruiting the best candidates and was rife with corruption hazards. Most trainers at the police educational establishments, particularly those who train specific policing skills, either had no prior professional experience at all or what experience they had was outdated with little or no rotation of training staff. Practitioners called in to train received no training, and no proper selection method was used. There was very little contact with police training institutions abroad, apart from those in CIS countries, and – partly as a result of this – almost no research into practical problems faced by the police was conducted.

Both the community-based policing and the police education activities included elements of material support, which might have played a role in their swift acceptance by the Armenian police leadership. Police outreach stations were built to accompany the introduction of community policing. This policing philosophy advocates close working relations and physical proximity between the police and the public, and small police outreach stations also strike a familiar chord with all former Soviet police personnel because they are reminiscent of a previous equivalent called "*opornye punkty*" ("strong points"). These small police stations played an important role in Soviet policing doctrine, both in terms of keeping order and as a means of controlling the population. This view of their function would have to be changed, as outreach stations in the community-based policing model are used to foster co-operation, mutual respect and trust between the police and the population. If democratic standards and human rights are to be taught in a meaningful sense at the Police Training Centre, the physical premises will first have to be

upgraded in a major way. Most of the Centre's buildings, which dated back to the 1960s, were dilapidated, with dormitories that were unfit to accommodate cadets and classrooms that lacked heating and basic training materials.

In addition, the Police Assistance Programme featured a project to upgrade the police emergency call centre so that calls from the public could be responded to more quickly. The improvement in public order management techniques was not one of the components of the Police Assistance Programme, although with hindsight it should probably have been included. Public order management standards had not evolved much – if at all – since Soviet times, a fact that was underscored during political demonstrations in April 2004, when the police cracked down hard on what was a peaceful demonstration close to the Armenian parliament, resulting in injuries to dozens of people.

Starting Implementation, 2005-2007

Of the three planned police assistance activities – introduction of community-based policing, upgrading of the police school, and establishment of an emergency call centre – the renovation of the Police Training Centre was taken up first. The thinking behind this was that police education was a core issue to be tackled and having the police school renovated first and equipped with modern teaching aids would both showcase what adhering to international standards involved and establish the OSCE as a reliable player in the eyes of the Armenian police. The renovation of the Police Training Centre's six buildings started in October 2005, and the police school was re-opened by the Head of the Police and the Head of the OSCE Office in Yerevan in March 2007. All in all, some one million euros were spent on the renovation, equipping, and development of the new curriculum for the Training Centre. This has produced lasting results, and the Training Centre remains in excellent condition to this day, thanks to its dedicated management.

With the renovation of the school on course and preparations for modernizing its curriculum also under way, it was time to think about the other important element of the Police Assistance Programme, namely the introduction of community-based policing.

The concept of community-based policing is founded on the establishment of trust and partnership between the police and the community with the aim of reducing crime through prevention and detection. This policing philosophy involves daily contact with the population, which aims at providing high-quality services to the community by solving local problems at a local level. In turn, the community helps the police to solve crimes by actively cooperating with them. It presupposes a high level of transparency and accountability on the part of the police. A pilot project was developed, which focused on a multitude of awareness-raising activities aimed at police officers of all

ranks, schoolteachers and children, local business people, civil society organizations, and ordinary citizens in the pilot district. An important part of the project plan was the construction of several police outreach stations: small police stations that allow the police to have a decentralized presence in the district and to work in close proximity to the population they are supposed to serve. Two international community-policing experts were hired to raise awareness of the new policing philosophy among as many police officers as possible, both in the Arabkir district of Yerevan and in Yerevan as a whole. A conscious decision was made to attract a Russian speaker as well as a seasoned community-policing practitioner from Western Europe or North America. A Russian speaker has the advantage of being able to communicate with his or her Armenian counterparts and explain the basics of community-based policing to police officers and the target population without needing an interpreter. At the same time it was accepted that his or her practical experience with community-based policing might be more limited because of the shorter exposure that much of Eastern Europe and the former Soviet Union has had to this policing philosophy. The European or North American expert would be used for more detailed training on community-based policing and problem-solving methods. It was anticipated that positive results would be achieved by having them work together and thus taking advantage of the “best of both worlds”. It was believed that this would lead the police to embrace the new approach relatively quickly and work out a national, Armenian approach to community-based policing. At the same time, resources were invested in study trips for several mid- and high-ranking police officials responsible for the introduction of community policing, including the First Deputy Head of Police, the Head of Yerevan Police Department, and the Head of Arabkir Police District.

Ambition and Frustration, 2007-2008

In mid-2007, arguably the most far-reaching decision for the Office’s community-policing activities was taken. Whereas the project initially focused on awareness raising, the realization set in some six months into the project that awareness-raising activities would go only so far in getting the police leadership to see the merit of the new approach and to become actively involved in developing it further. The project would train tens of dozens of people, sometimes for several days at a time. They would sit through the training sessions, agree with the trainers and the philosophy, and sometimes participate actively and offer practical experiences and/or solutions. Then they would thank the trainers and the OSCE, fill in positive evaluation forms and return to their daily lives, leaving the project team guessing as to the impact of their work.

The conclusion reached was that in order to make the biggest possible impact with the limited resources available, a pilot community-policing unit would have to be set up in Arabkir Police District. Initially the unit would be responsible for a limited area within Arabkir. Trained by OSCE experts and working according to a shift schedule that would provide a 24-hour service, the members of this unit were expected to show in practice how the community-based policing model could work in Armenia. The experimental unit would work from one of the two police outreach stations that were to be constructed and co-operate with the population through Citizens' Advisory Groups (CAGs) among other means. The Arabkir Police leadership, it was hoped, would work actively with the OSCE and the experimental unit to improve its efficiency and adapt it to local needs. The police leadership could then take this experience, adapt it further if necessary and implement it throughout Yerevan and eventually throughout Armenia. The first pilot community-policing unit was set up in Arabkir on 1 April 2008 and was named "Local Police Unit" (LPU). It was fully answerable to Arabkir Police District with the OSCE in an advisory role.

The unit was initially comprised of eight police officers, including two women, and served a designated area in Arabkir containing 12,000 people. The timing could hardly have been worse, as one month previously, on 1 and 2 March 2008, the centre of Yerevan had seen deadly riots after prolonged protests following the disputed presidential elections of 18 February 2008. The police had been called in to disperse the protesters and ten people had died in the ensuing violence, including two police officers. The police's public order-management training and equipment had both proved to be inadequate and there were widespread reports of police officers overstepping their authority. As a result, the image of the police, already not stellar, suffered further, and the idea of having the police and population working together in mutual trust and as equals seemed outlandish. Because of the post-election violence, the first half of 2008 saw a considerable slowing of OSCE police activity, with only the pilot community-policing project in Arabkir and some work with the Police Training Centre continuing in a low-key fashion. The upgrading of the emergency call centre at Yerevan police headquarters, one of the pillars of the original Police Assistance Programme, was dispensed with entirely as the priorities were considered to lie elsewhere. No matter how modern this centre would have been, the population's trust in the police was further eroded and would first have to be rebuilt.

The OSCE deemed it very important that the members of the LPU should be trained extensively to prepare them to perform the duties of community-policing officers. During the inception phase of the pilot community-policing unit, a fundamental issue had to be addressed, one that continues to exist today and hampers the full implementation of community-based policing. In the Armenian police, as in all other post-Soviet police forces, a strict functional division exists within what in the West is con-

sidered the uniformed police (the normal uniformed police officers you would encounter on the street or in police stations, not undercover agents or investigators): There are neighbourhood inspectors, who do a large proportion of what is considered traditional police work; juvenile inspectors, who, as their job title suggests, work with minors; preliminary investigators, who perform basic investigative functions; the patrol service, who do auxiliary work and are non-commissioned officers; and the traffic police, in charge of safety on the roads.

These different police units each make up one piece of the policing “pie”. Of course, having officers from five different branches of the uniformed police do what in the West would be done by one police officer is not very efficient. In terms of management, this mosaic of units and responsibilities poses a big challenge. Having five different hierarchies in place means high overheads for the underfunded Armenian police force, as well as a lack of flexibility in training, assigning, or (temporarily) transferring staff. In addition, all the services apart from the traffic police (who only report to their branch’s command structure) fall under a dual command structure (accountable both to their branch and to the district commander of the territorial unit in which they serve). The police districts also tend to operate very hierarchically, with district commanders often dictating every priority and action of individual officers, which leaves officers on the beat with very little autonomy. Add to this the difference in status and powers between commissioned and non-commissioned officers (for instance those who serve in the patrol service) and the picture becomes even more complicated.

Another problem was that of culture. The OSCE had insisted that several positions in the LPU would be reserved for women, despite the scepticism of the police leadership both in Arabkir District and at police headquarters. With very few exceptions, the role of women in the police was and is restricted to administrative tasks, although they officially comprise more than half of the workforce. There is a deep-rooted conservatism and cultural prejudice in the police – but not only there – which holds that women are not capable of performing operational police tasks and should be protected from the burdens of patrolling the streets and dealing with crime. This, one should add, is the opinion of those who still regard the police as a force, rather than as a service to the population. In addition, we were told, for women to work night shifts is unheard of and frowned upon by their families. In any case, it would interfere with the household duties that continue for these same police-women. The OSCE project team, however, managed to include two women in the pilot LPU, who initially agreed to perform full police services and participate in the shift schedule, including night shifts. As soon as the first night shift came around in which female participation was foreseen, however, they had a change of heart and refused categorically. It turned out that the police leadership’s reservations had been proven correct and that traditions were

stronger than expected. The women did continue to function in the LPU but were excluded from night shifts for the time being.

From the very beginning, the OSCE experts wanted to have all the police officers in the LPU perform all the functions that are required from modern police personnel. The idea was to do away with the division of labour between the different police branches (juvenile and neighbourhood inspectors and patrol officers) and to make everybody well-rounded police officers. The only concession was to not include traffic work in their job descriptions, as the traffic police had just undergone a re-organization, and the idea of having them undergo more upheaval was unacceptable to the police leadership in 2008.

Although it was understood that patrol officers, non-commissioned and with less police education than the other police officers, could not perform investigative functions under the existing regulations, the OSCE insisted on having them represented in the LPU as well and given full powers, including powers of investigation. Given proper training, all LPU personnel should be able to perform the same tasks equally well. But again, the organizational culture proved resilient, and the non-commissioned patrol officers were not given the same tasks as the commissioned officers and were again confined mainly to auxiliary functions. Moreover, these auxiliary functions are not always directly related to police work. Police officers in former Soviet countries tend to have as part of their job descriptions a host of functions that are not usually associated with police work. For instance, beat officers spend a lot of time making routine calls on ex-convicts, searching for army draft dodgers, and must frequently attend hospitals because doctors are obliged to inform the police every time somebody is admitted with even the slightest of injuries so that a routine investigation into its cause can be carried out in case a criminal act might have occurred and gone unreported. In addition, LPU police officers would often get called away to perform public order management duties, even though they had had no special training. Even events which, by any reasonable yardstick, posed no public order risk had a sizeable police presence, disrupting officers' schedules and normal duties. Needless to say, this is all a considerable waste of time and resources and is acknowledged as such by most of the police officers who perform these duties.

All the aforementioned difficulties are compounded by the low rates of pay in the police. A middle-ranking uniformed police officer will typically earn around 250 euros per month, and this in a country where the cost of living, except for housing, is not much lower than in most other European countries. As can be imagined, this provides little incentive for police to perform their duties to the best of their ability.

All these initial – and current – challenges notwithstanding, the LPU started its operations and received constant on-the-job training from the OSCE experts on pro-active policing, problem-solving techniques including the SARA model (Scan, Analyze, Respond, and Assess), and how to com-

municate effectively. A CAG was set up in Arabkir a few months into the project in the summer of 2009 and police open days were organized. In order to measure progress, a baseline public opinion poll about public perceptions of the police had been carried out, showing that about half of those polled still trusted the police.

In the summer of 2009, the LPU was relocated to the two newly-constructed police outreach stations. As the unit's territorial responsibilities were expanded, the number of police officers was increased to 16. However, the quality and motivation of some of the officers left much to be desired, and leadership skills among the management of the unit also were lacking. In effect, the LPU was used as an auxiliary force to aid the regular police units, and many police officers not involved in the pilot project did not take it seriously. To some, the LPU was known as the "European Police Unit". All in all, the unit's start-up was challenging, and it took a lot of time and effort on the part of the OSCE project management team and the experts to get the LPU going and to make it function as a team and more or less perform some community-policing tasks with a limited degree of independence from Arabkir police headquarters.

Meanwhile, there were developments on the police education side. In early 2007, while renovation work on the police school was still ongoing, the OSCE Office launched a joint project with the school's management to modernize the curriculum and introduce new training methods. On this front, things went more smoothly, thanks in large part to the Head of the Police Training Centre, who had become an agent for change. Having been given the opportunity to study international experience extensively, the Head and his staff co-operated very well with the OSCE in designing a modern curriculum for the three-month induction course at the Training Centre, which involved the introduction of community-based policing topics, greater attention to human rights, and interactive student-centred teaching methods, including role-playing. In addition, the Office had visiting experts give training-of-trainers courses for the Centre's instructors.

Increased Ambition: From Police Assistance to Police Reform, 2009-2010

In late 2008, with the community policing project already underway for half a year, despite all its problems, and work on the Police Training Centre's curriculum progressing, it was time to think about the next steps. The success of the new community-based approach to policing was still far from certain, and even success in Arabkir would not automatically mean smooth implementation in the rest of Yerevan, let alone the country as a whole. The same was true for the police education system. The modernization of the Training Centre curriculum addressed only part of the educational challenge. The Police Academy remained "*terra incognita*" with trainers inadequately trained

and the curriculum unreformed and unsuited to modern policing needs. The OSCE police experts were and are still confronted with the functional irrelevance of what is being offered at the Academy. Basic policing techniques, report writing, and communication skills all have to be taught anew to LPU officers, even after four years of higher police education at the Academy.

In other words, the Office had scratched the surface of what needed to be done to achieve meaningful change and, in the process of doing so, had created expectations of further and deepened involvement with both the police and civil society.

Over a period of three years, the OSCE had succeeded in creating a small pool of mid-level officers in crucial positions who had begun to see that things could be done in a different way, despite the indifference or outright hostility of many of their colleagues – including those at the very top of the police hierarchy. Despite the many problems that would undoubtedly lie ahead, it was clear that the only way was forward. This sentiment was supported by political developments that were taking place at the same time. In May 2008, after President-elect Serzh Sargsyan was sworn in and had appointed a government, a reform drive ranging from economic liberalization to judicial reforms and police reform was announced. This meant that the discourse had finally moved from assistance to reform. Community-based policing and police education reform were to be important parts of the reform. In November 2008, a memorandum of understanding (MoU) was signed to establish two joint OSCE/police working groups: one dealing with the further development of a community-based policing model and the other with creating a modern and integrated police education sector.

The joint working groups started their deliberations in February 2009 and elaborated their plans in the course of the subsequent months. In June of that year, interim plans were presented to the Head of Police and the Head of the OSCE Office. The community-policing pilot was given a boost with the release of a second opinion poll in May 2009, which showed that public perception of the police had changed positively since the establishment of the LPU. A strategic plan and deployment model were drawn up to expand the community-policing pilot beyond its pilot area throughout Arabkir District. On the police education side, the working group had prepared an outline of a three-tier education structure in accordance with the Bologna international educational standards. The proposal encompassed basic training at the Training Centre with the curriculum to be increased from the prevailing three months to six months, with advanced training at the Police College (to be set up) and higher education at the Police Academy.

In June 2009, the interim plans were presented to the police leadership but did not meet with outright approval. In particular, the proposed overhaul of the recruitment system with the involvement of computerized tests and an independent commission met with resistance. It was clear that more time was needed to discuss things, to bring around the police leadership, and to engage

the government at a higher political level. The Office subsequently took time to discuss the ongoing police reform with the presidential administration, the government, and the National Security Council, and over time it succeeded in putting these issues back onto the agenda.

In September 2009, a new and young Deputy Head of Police from outside the service was appointed. He was specifically charged with devising a comprehensive police reform programme, and the Office set about helping him to elaborate the programme, especially the overarching elements related to building trust in the police and to police education reform. This was done mainly through the working groups on police education reform and community-based policing, which provided useful input, and the Police Reform Programme was adopted by the government in April 2010.

The events of 1 and 2 March 2008 and their aftermath, as well as the pilot community-based policing project in Arabkir, had exposed a sizeable divide between the police and the media, especially those areas of the media that are critical of the government. Both tended to regard each other with suspicion, with the police often convinced that the media deliberately misinterpreted information to cast them in a bad light. The media, on the other hand, often voiced complaints about the police system's lack of transparency, caused among other things by a very hierarchical way of providing information and lack of communication with media representatives. The Office therefore set out to support mutual co-operation aimed at informing the public objectively about police work and crime and at preventing and detecting crime. Both sides needed to be made aware of the challenges that each face in providing their respective services to the public.

The first phase of the project in early 2009 started with the assessment of current media and police relations in Armenia through a series of round tables in all the provinces. The main problem identified was the lack of co-operation and trust between the media and the police resulting from a lack of accessibility and accuracy in police-related information, a lack of knowledge on the part of the media regarding their rights and duties when reporting on police investigations, and the right of the police to withhold information in the interests of the investigation. Suggestions were made for improving the institutional set-up within the police by appointing spokespersons at regional level, rather than having everything go through the press and public information department at police headquarters. Training for police spokespersons and journalists in the area of national regulations and international tools regulating the freedom of information, as well as European Court of Human Rights case law, was also agreed on. The next step was the development of a guidebook for police officers to help them co-operate with representatives of the mass media. The Office is currently ascertaining whether co-operation has really improved, for example as a result of the activities of the newly-appointed public relations officers in the provincial police districts. Preliminary results indicate that the situation has indeed improved and that working

contacts and the exchange of information between police and media are now more frequent.

Another area in which assistance could now be provided was public order management. The March 2008 events opened the door for changes in this area and improved co-operation with the international community. Assistance in the area of public order management was part of the MoU signed in November 2008 between the OSCE and the police. Even though the police had themselves invested in protective gear and communication equipment for officers, an OSCE-commissioned assessment report highlighted not only shortcomings in public order management but also a lack of attention to the concept of public safety management in the broadest sense. The existing command and control doctrine, preparation for events, and tactics of dealing with crowd management issues were found to be outdated with their emphasis on the use of force, and insufficient attention was paid to officer safety issues and training. This comprehensive report was not followed up for quite some time. Only in early 2011 was a follow-up agreed, and in the summer, the Office invited an international expert on a three-month mission to elaborate a new doctrine.

A recent addition to the Office's police assistance activities concerns the issue of domestic violence. Ignored in Armenia until a few years ago, this is now high on the agenda of international organizations and is slowly being discussed in Armenian society. Although researched and surveyed, it has never been addressed from the viewpoint of police-public interactions. In 2010, the Office commissioned an analysis of the reporting rate and registration method used for cases of domestic violence, the training of police personnel, the role of the gender of police officers involved, and the solutions suggested by the police. Improvements can be made by identifying shortcomings in the police's activities and making recommendations.

Police Reform: From Theory to Practice, 2010-2011

The Police Reform Programme adopted by the government in April 2010 was formally drafted under the guidance of the National Security Council, which oversees many other areas of reform that have been drafted in the framework of Armenia's continuing co-operation with the EU. Originally more of an activity plan without a holistic approach, the OSCE helped to prepare a conceptual note to accompany the package. The programme contains eleven priority areas, including proposals for structural changes, traffic police reform, the introduction of biometric passports (a requirement for the Association Agreement being negotiated with the EU in the framework of Eastern Partnership) and other migration-related issues within the remit of the police, improved human rights protection, increasing the effectiveness of the fight against organized crime, and improving the social conditions for police per-

sonnel and public order management. At least on paper, the proposed measures will lead to new policing methods and a greatly improved structure that will provide an improved level of service to the population. The use of public opinion polls as a policy tool was also accepted. In terms of structural reform and increased efficiency, the change is still only on paper. Current thinking leads in the direction of merging several of the separate police structures, e.g., integrating the patrol police with the traffic police, but resistance is considerable and these plans have yet to be implemented. In some of the other areas of reform, implementation is still under way. The production of biometric passports has been tendered out and many legal documents related to the other areas of reform have been amended.

For the OSCE, the overarching priority in its assistance remained the introduction of the community-based policing approach, which profoundly influences and changes not only traditional uniformed police work but also how investigations are conducted, how officers are trained, and how the police organization is structured. This also involves an increased role of women in the police. A further step in consolidating the police reforms is the establishment of a Police Reform Unit within police headquarters. The unit will be tasked with overseeing the implementation of everything that has been agreed so far and will report directly to the Deputy Head of Police in charge of police reforms.

In July 2011, an implementation plan to expand community policing from Arabkir District to the whole of Yerevan as proposed by the joint OSCE/police working group on community-based policing was approved by the police leadership. It includes the finalization of job descriptions and a deployment model and shift schedule for community-policing officers, involving the introduction of performance appraisal reviews, an analysis of the current and future use of police outreach stations, the expanded use of CAGs, and finally a comprehensive training needs assessment.

In the police education field, the Police Reform Unit will have to direct the implementation of the work done by the joint OSCE/police working group on education. After the Police Educational Complex was established, a heated discussion followed as to how it should be structured and staffed. One school of thought proposes a centralized model with a strong administration in charge of staffing and curriculum development and the three educational institutions of Police School, Police College, and Police Academy as mere executors. Another group advocates a more decentralized model, with the educational institutions being given greater autonomy in devising curricula and staff training and the creation of a new institution to take charge of providing the Complex with methodological support by means of sociological research, studying good international practices, and conducting surveys.

One crucial question that seems to have been solved is that of admission. In the past, the application review and admission tests for the Police Academy were open to corruption, partly because those who were admitted

to the Academy would not have to serve in the army. As a result, the candidates commissioned as officers were not always the most appropriate. The current reform provides for a computerized, anonymous, random set of questions being answered. The tests, prepared by university specialists, will be reviewed by an independent admissions panel with a majority of non-police personnel – probably a first in the OSCE region. The same will apply for professional advancement. A police officer wishing to be promoted will have to receive the required training at the Police College or Academy and also have to pass a computerized test. This new approach means that the old system of attestation will very likely be abolished.

As the reforms take hold in the years ahead, the police will have to get five strategic issues right: maintain a service-oriented approach, focus on adequate training, inform and involve the population, appoint adequate staff to key positions, and improve salaries. The last factor is not entirely within the remit of the police because it is largely dependent on the overall health of the state's budget, which is likely to remain tight over the next few years. However, there are many efficiency gains to be had within the current police structure, and the Police Reform Programme mentions this. Apart from looking into ways of somehow merging the functions of neighbourhood and juvenile inspectors, patrol service, and traffic police, there is also a likely overlap in the departments responsible for criminal investigation, namely the Criminal Investigations Department and the Organized Crime Department. The police would also be wise to look at the anomaly of the Transport Police, a unit of 340 officers responsible for maintaining security on the railroad system even though the latter operates at only a fraction of its former capacity now that most of the border is closed and infrastructure is in a state of disrepair. Efficiency gains could also be made in the police regions and at headquarters. If this were to be done with vigour, the savings could be re-invested in training and higher salaries.

Lessons Learned

Many lessons have been learned and passed on by other OSCE field missions that were involved in the area of police assistance earlier than the Office in Yerevan. It has taken careful note of them (for instance by working on improving police-media relations, where very useful work had previously been done by the Mission to Serbia). In some cases, the specific conditions in Armenia led to the Office having to improvise its way through a challenging situation, and as Armenian police reform advances further and assumes more unique features in the process, the Office is less likely to be able to benefit from others' experience. The potential role of the OSCE Secretariat in all of this is great and should be encouraged. If managed properly, the SPMU could

be the link between field activities, providing them with guidance and practical support, especially in the initial stages of police assistance.

Looking back, it becomes clear that more time and effort should have been spent on preparing the ground at the very beginning of the process and explaining exactly what the projects proposed by the OSCE entailed. In particular, the concept of community-based policing, still a difficult sell even in countries with a better established tradition of democratic policing than Armenia, was not very well understood by the Armenian authorities from the outset. Both the Office in Yerevan and the SPMU assumed that the police knew exactly what they had signed up for after just a few introductory seminars. Having all the main Armenian players understand the concept and philosophy of community policing in greater detail and the changes it entails, both structurally and educationally, from the very beginning might have made for more rapid progress in the projects than turned out to be the case. Also, more and earlier study visits should have been undertaken. Often seen as an expensive junket or frivolity, they are actually well worth the money. These visits provide the opportunity to see other countries' experience at first hand and talk to foreign colleagues – an important consideration for practically-minded police officers. They have also been very useful in building personal rapport between the police and OSCE officers.

Launching the pilot community-policing project in Arabkir accelerated matters greatly because it instantly displayed the issues at hand, tested assumptions, and prioritized the areas for assistance. It also proved to be highly educational because what had been conveyed in theory was now being tested in practice. Having said that, there can never be too much emphasis on identifying proper international experts, as this is largely what determines the success of projects. Despite the devotion of considerable amounts of time to their recruitment, with SPMU assistance and consultations with other field operations involving invitations to the mission for interviews, the quality and effectiveness of the invited experts was hit and miss in the early stages. At times, their levels of knowledge and experience were not matched by equivalent communication skills.

The fact that OSCE police assistance began by providing some infrastructure and equipment was probably a good idea. As in many other cases and countries, hardware is readily requested and happily received by host authorities. Initiating police assistance in Armenia with the renovation of the Police Training Centre, moreover, lent credibility to the OSCE as a serious player that can put its money where its mouth is. This was literally a very tangible start to the Office's activities.

It goes without saying that it has been important to constantly share information with participating States, as well as with partner agencies in the host country, such as its parliament and presidential administration. This approach included inviting high-level host country officials to help raise awareness about projects and reforms in Vienna, and attracting visiting dele-

gations to project sites in Armenia. The National Assembly is the logical institution to exercise democratic control over the armed forces, and the Office has encouraged the Standing Committee on Defence, Security, and Internal Affairs to monitor the police reform, a task it shares with the National Security Council. The dialogue with international partners has also been very important not only because of the material support they provide but also – sometimes more importantly – because of political support for what is an endeavour to promote shared values.

Could War Return to Nagorno-Karabakh?

Introduction

The conflict between Armenia and Azerbaijan over the region of Nagorno-Karabakh has remained unresolved since the May 1994 ceasefire agreement. Immediately after the war in Georgia in August 2008, it looked as though the presidents of Azerbaijan, Ilham Aliyev, and Armenia, Serzh Sargsyan, might be about to agree on a compromise for the first time. In 2007, the three co-chairs of the Minsk Group – from France, the USA, and Russia – had submitted a proposal containing a set of “Basic Principles”, which were intended to be the foundation for the negotiation of a comprehensive peace settlement.¹ The Minsk Group, which currently consists of 14 OSCE States, has been attempting to mediate between the two sides since 1992 and to initiate and support a peace process for the disputed territory.² Of the Basic Principles, however, two in particular are disputed by the conflict parties. While the government of Azerbaijan emphasizes the principle of sovereignty and territorial integrity, because Nagorno-Karabakh lies within its borders, the Armenian government stresses the principle of self-determination as a means of justifying the presence of the Karabakh Armenians and securing their future in the territory. Just as the Minsk Group has been intensifying its efforts, the EU has also ramped up its involvement with the conflict by means of its Eastern Partnership, which was established in May 2009. In addition, a low-

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- 1 The Basic Principles were first presented to the Armenian and Azerbaijani foreign ministers at the OSCE Madrid Ministerial Council in November 2007. US President Barack Obama, Russian President Dmitry Medvedev, and French President Nicolas Sarkozy highlighted the six most important of them in a joint statement in July 2009. See The White House, Office of the Press Secretary, *Joint Statement on the Nagorno-Karabakh Conflict, by U.S. President Obama, Russian President Medvedev, and French President Sarkozy at the L'Aquila Summit of the Eight, July 10, 2009*, 10 July 2009, at: http://www.whitehouse.gov/the_press_office/Joint-Statement-on-the-Nagorno-Karabakh-Conflict/. The Basic Principles are based on the principles contained in the Helsinki Final Act on the renunciation of force, territorial integrity, and equal rights and self-determination of peoples and include the following six points: the return of the occupied territories surrounding Nagorno-Karabakh to Azerbaijan, the linking up of Armenia and Nagorno-Karabakh via the Lachin corridor, the return of refugees and internally displaced persons, an interim status for Nagorno-Karabakh providing guarantees for security and self-governance, the final status of Nagorno-Karabakh, to be determined by a plebiscite, and international security guarantees that would include a peacekeeping operation. Since the Madrid Ministerial, the details of the Principles have been revised several times, but their essence remains the same. Cf. *Medvedev momentum falters in Nagorno-Karabakh*, IISS Strategic Comments, Comment 27, August 2011, at: [mocs/past-issues/volume-17-2011/august/medvedev-momentum-falters-in-nagorno-karabakh/](http://www.iiss.org/mocs/past-issues/volume-17-2011/august/medvedev-momentum-falters-in-nagorno-karabakh/).
 - 2 The members of the Minsk Group are Armenia, Azerbaijan, Belarus, Finland, France, Germany, Italy, Russia, Sweden, Turkey, the USA, and the rotating members of the OSCE Troika; see: <http://www.osce.org/mg/66926>.

key Swiss diplomatic effort has been attempting to normalize the historically strained relations between Armenia and Turkey since 2007. This also appeared to have achieved a minor breakthrough in late 2009/early 2010, with the signing of two protocols.³

However, Baku, which is also a strategic partner of Ankara in its conflict with Armenia, successfully used the power afforded it by its gas and oil wealth to dissuade Turkey from ratifying both protocols. The planned normalization would have weakened the joint Turkish and Azerbaijani trade embargo against Armenia while improving Yerevan's position in the negotiations over the future of Nagorno-Karabakh. But by taking this step, Azerbaijan did itself no favours, as domestic developments in Armenia since then appear to have seriously dented interest in an agreement. Subsequently, the government in Baku has been attempting to encourage Yerevan to make compromises largely by increasing military pressure, yet this has been without any tangible success. In the meantime, relations between Armenia and Azerbaijan have deteriorated and hardened. This is evident in the dramatic rise in the number of exchanges of fire at the line of contact between Nagorno-Karabakh and Azerbaijan, and even at the Armenian-Azerbaijani border, as well as in the arms race, which shows no signs of slowing down. Most recently, Presidents Barack Obama, Dmitry Medvedev, and Nicolas Sarkozy – all three of whose current terms of office expire in 2012 – have increased the political pressure on both sides to reach a compromise on the Basic Principles by signing a joint declaration at the G8 summit in Deauville in May 2011.⁴ Whether external pressure of this kind, no matter how politically important and well intentioned, will suffice to finally bring about a breakthrough is, however, something that many experts doubt.⁵

Nonetheless, there are factors that raise hopes that a peaceful resolution to the conflict may be found. The discovery of oil and gas in the Caspian Sea and Azerbaijan has significantly raised the region's economic importance since the 1990s. The unresolved conflict in the South Caucasus and the resulting economic and trade embargoes imposed on Armenia and Nagorno-Karabakh by Turkey and Azerbaijan create an environment that is not conducive to long-term investment and the economic development of the entire South Caucasus. To this must be added the potential of the region to act as a bridge to Central Asia. The significance of this function is growing for reasons connected to security and energy policy as well as for economic reasons, but it is hard to exploit as things stand. These constraints on development ac-

3 Cf. Thomas de Waal, *Armenia and Turkey: Bridging the Gap*, Carnegie Endowment for Peace, Policy Brief 87, Washington, DC, October 2010, available at: <http://carnegieendowment.org/2010/10/05/armenia-and-turkey-bridging-gap/22p>.

4 Cf. *Joint statement on the Nagorno-Karabakh Conflict, by the Presidents of the OSCE Minsk Group Co-Chair Countries at the G-8 Summit*, Deauville, France, 26 May 2011, at: <http://www.osce.org/mg/78195>.

5 Cf., e.g., *Experts: There will be no breakthrough in talks around Nagorno-Karabakh*, Today.AZ, 3 June 2011, at: <http://www.today.az/print/news/politics/87440.html>.

celerate the impoverishment of the population while encouraging black markets, corruption, and criminality in the region. The diplomatic resolution of the territorial conflict therefore remains a key precondition if there is to be any hope of overcoming these problems. Since 2007, NGOs from both states parties to the conflict have been meeting fairly regularly either in Georgia or Turkey to discuss how further progress could be made in Armenian-Azerbaijani relations.⁶ They are kept informed by the USA of the state of discussions between the Minsk Group and the conflict parties. Russia, which has been participating constructively in attempts to resolve the conflict, particularly through the actions of President Medvedev, has also organized a meeting between Armenian and Azerbaijani parliamentarians.

Is Peace Possible?

In a recently published study, Charles Kupchan has examined a number of cases to determine when and under what conditions successful peace processes are possible.⁷ He comes to the conclusion that every successful peace process goes through four phases: In the first instance, one of the parties to the conflict has to develop the willingness to pursue peace (“unilateral accommodation”) and to take the first political steps in this direction. In the second phase, both sides need to show “reciprocal restraint” to achieve rapprochement by making concessions and forging initial mutual agreements. In the third phase, rapprochement at diplomatic level extends deeper into the societies concerned, which begin to create a multitude of links (“societal integration”). Only then can new interpretations of history and identity (“generation of new narratives and identities”) emerge on both sides, lending the peace process long-term stability. Kupchan mentions five additional factors that are significant for success: First, diplomatic rapprochement cannot be forced, but must be the result of mutual diplomatic engagement. Here it is important not to confuse engagement with appeasement. Second, it should be stressed that, according to Kupchan, regime type is no indicator of the success of peace efforts. Contrary to popular opinion, he denies that democracy or democratization is a necessary prerequisite for successful peace processes. Third, political diplomacy between the two sides and not economic interdependence is the real “currency of peace”,⁸ though economic interdependence can have a positive effect. Fourth, relations between domestic political factions in the states in question have a central role for the peace process. If opposition and nationalist forces are against peace and able to mobilize suffi-

6 One of these meetings is described in: Caucasus Institute (ed.), *Caucasus Neighborhood: Turkey and the South Caucasus*, Yerevan 2008.

7 Charles A. Kupchan, *Enmity into Amity: How Peace Breaks Out*, Friedrich Ebert Stiftung International Policy Analysis, Berlin, April 2011, at: <http://library.fes.de/pdf-files/iez/07977.pdf>.

8 Ibid., p. 7.

cient support, this can cause any peace process to fail. Fifth and finally, third parties – external powers or international organizations – can play an important facilitating, supporting, or complementary role in the process, though this can never replace the need for co-operation between the conflict parties.

Applying these findings to Nagorno-Karabakh, we can observe the following: The good news is that the authoritarian structures in place in both states do not necessarily preclude a successful peace process. It can even be argued that the democratization of one or both states could cause additional structural problems for the peace process if it were to lead to fragmentation in domestic politics, reducing the predictability and reliability of foreign policy. In addition, democratization processes may also raise the likelihood of internal or external violence (e.g. to distract from domestic problems), which would also damage the prospects of any peace process. As the publication of the joint statement by Obama, Medvedev, and Sarkozy indicates, conditions in the wider world are also favourable for a peace settlement. Furthermore, an intensive political dialogue has been taking place at the highest level between the presidents of the two conflict parties for several years now. Here as before, however, Azerbaijan has rejected the participation of Nagorno-Karabakh's political representatives, as it wishes to avoid contributing to any form of political recognition for the territory. This is not a problem under the current Armenian president, who is himself from Nagorno-Karabakh and hence indirectly represents the region. Despite this dialogue and the evident desire for peace on the part of both presidents, it is nonetheless necessary to ask whether either side is genuinely willing to enter into a peace process, enabling the start of a phase of reciprocal restraint and concessions.

Asymmetric Starting Positions

At the strategic level, the initial positions of the two sides are different. That makes agreement difficult and fuels mistrust on both sides. Armenia appears to be in the more comfortable position, as it has gained the upper hand in the military confrontation between the two countries over the Azerbaijani region of Nagorno-Karabakh, whose population is largely Armenian. Since 1994, it has also succeeded in occupying seven further administrative regions of Azerbaijan to create a security buffer zone.⁹ It is a member of the Collective

9 For full details of the historical genesis of this conflict, see: Rexane Dehdashti, *Internationale Organisationen als Vermittler in innerstaatlichen Konflikten. Die OSZE und der Berg Karabach-Konflikt* [International Organizations as Mediators in Domestic Conflicts. The OSCE and the Nagorno-Karabakh Conflict], Frankfurt am Main 2000, pp. 98-123. For a briefer overview, see also: Rexane Dehdashti-Rasmussen, The Conflict over Nagorno-Karabakh: Causes, the Status of Negotiations, and Prospects, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.) *OSCE Yearbook 2006*, Baden-Baden 2007, pp. 189-210, and Emil Souleimanov, The Conflict over Nagorno-Karabakh, in: Institute for Peace Research and Security Policy at the

Security Treaty Organization (CSTO) and a military ally of Russia. Yerevan can be satisfied with what it has already achieved and, since it is merely interested in maintaining the status quo, need only seek to gain international recognition for the territories it has conquered. It remains unclear, however, whether Armenia supports the local Nagorno-Karabakh Armenians in Stepanakert in their efforts to achieve independence or would ultimately rather annex the territory for itself, granting it a special status as an autonomous province. It has not yet recognized the local government in Stepanakert, even though the latter does maintain a "Permanent Representation" in Yerevan as well as offices with no diplomatic status in several other European capitals. The trade embargo imposed by Azerbaijan and Turkey following the ceasefire, however, is detrimental to Armenia's economic wellbeing, as it means that Armenia can only trade with its neighbours via a detour through Georgia and Iran. This artificially increases the cost of trade in goods, weakens Armenia's economy in international competition, and contributes to poverty and underdevelopment in the country. After the war in Georgia in 2008, Georgia's President Mikheil Saakashvili also banned Russian arms deliveries to Armenia and to Russian troops stationed in Armenia from passing through his country's territory. Deliveries are therefore now only possible via the expensive airborne route or a detour through Iran. Armenia, which has allowed Russian troops to be stationed on its side of the Turkish border to help it defend itself against Turkey, continues to rely on its ally for military support and arms shipments, although these have become more expensive for both Moscow and the Armenian armed forces following the war in Georgia. This is not a state of affair that Armenia will be able to afford in the long term.

Azerbaijan is not interested in maintaining the status quo. It is using diplomatic means to seek the return of the territories occupied by Armenia and the Karabakh Armenians to its sovereign control. It does not wish to grant Nagorno-Karabakh more than autonomy status and therefore also demands co-responsibility for the Lachin corridor, which is supposed to later provide a secure connection between Nagorno-Karabakh and Armenia via Azeri territory. On the one hand, Baku finds itself in the disadvantageous position of having to make demands as a defeated power. Here, it seeks to make use of its refugee and displaced-person problem, which is numerically far larger than Armenia's. During the military conflict, Armenia had to take in some 360,000 refugees and around 70,000 displaced persons, which it has sought to integrate as far as possible with international assistance. Baku, by contrast, had to deal with 200,000 refugees and between 570,000 and 690,000 displaced persons, who were accommodated in housing estates apart from the local population.¹⁰ To this day, they have still been kept from inte-

University of Hamburg/IFSH (ed.), *OSCE Yearbook 2004*, Baden-Baden 2005, pp. 203-220.

10 Cf. Hans-Joachim Schmidt, *Military Confidence Building and Arms Control in Unresolved Territorial Conflicts*, PRIF Reports No. 89, Frankfurt am Main 2009, p. 6, also available at: <http://www.hsfk.de/fileadmin/downloads/prif89.pdf>.

grating into local Azerbaijani society as a means of facilitating their resettlement in the case of a future peace agreement. This is also intended to strengthen Baku's international case for its claim to sovereignty over these territories, particularly since at best 100,000 to 150,000 Karabakh Armenians are said to still be living in the occupied territories of Azerbaijan. The return of the far larger number of Azeri refugees and displaced persons could therefore lead to new asymmetries and is a central problem for the peace process. In order to protect the peace, the deployment of a 3,000-strong OSCE peace-keeping force for various scenarios has been planned since the 1990s.

On the other hand, the discovery of rich oil and gas fields in Azerbaijan alongside rising energy prices have dramatically changed the political and economic balance between Azerbaijan and Armenia. Azerbaijan currently spends just over three billion US dollars on defence alone, a sum equivalent to the entire Armenian national budget. This means that Baku can, despite the political and psychological disadvantages of being the defeated power, act from a position of economic, political, and soon also military strength. A significant proportion of Azerbaijani defence spending, however, is lost to corruption, which is particularly rife in the defence sector. Moreover, Azerbaijani forces have problems with training their troops in the use of new weapons, and their combat effectiveness is generally estimated to be lower than that of their Armenian counterparts. It must also be borne in mind that it would be easy for long-range Armenian artillery and, in particular, Russian combat aircraft to destroy Azerbaijani pipelines and energy extraction facilities were war to break out. This would deprive the government and leading families in Baku of their most important source of income, with uncertain consequences for the ruling clan and the survival of the authoritarian regime. Baku has also followed the liberalization that has shaken the Arab world, and this new risk, though its extent is hard to gauge in Azerbaijan, cautions against a military intervention. The Azerbaijani energy sector is, for the reasons given above, generally not in favour of attempting to seek a military solution.

Azerbaijan is, however, expected to reach the zenith of its current energy-based economic boom in two to three years and, if rising energy prices do not extend this, to gradually lose the advantages it currently enjoys over Armenia. It is therefore to be feared that the government in Baku, despite Georgia's discouraging experience during the war in August 2008, may indeed risk a military campaign before its position is damaged too gravely, and this would make further peace talks impossible, at least for the short term. Azerbaijan's growing military power and the resulting danger of a military conflict are being consciously used by a number of Azerbaijanis in senior positions to force Armenia into a peace compromise.

That is where the real problem for the Armenian government lies. It seeks to avoid being forced, from a position of Azerbaijani strength, into a compromise on the Basic Principles and a peace settlement. This could cause

the Armenian president serious domestic political damage. The course taken by the Armenian-Turkish normalization discussions already provided warning signs. Despite the potential benefits, including the possibility of relaxation of the economic embargo, the talks damaged the Armenian president when the Armenian Revolutionary Federation withdrew from the coalition government, claiming that the Armenian head of state had made too many concessions to Turkey over the issue of the Armenian genocide.¹¹ This was a particular problem for the president, as this party has a major influence on the Armenian diaspora, particularly in the USA. Moreover, a previous attempt to find a diplomatic solution collapsed following the assassination of the Armenian prime minister in parliament in 1999, which has given every subsequent Armenian leader cause to be cautious. This underlines the importance of domestic politics for the peace settlement, which Azerbaijan really needs to take into account more, although there is no sign of it doing so at present.

Nor does Russia desire a new war in the Caucasus. It has a major interest in the Azerbaijani energy sector and seeks to significantly increase its economic stake and influence there, with one of its goals being to weaken the Western Nabucco pipeline project, which aims to connect the Caspian Sea to Western Europe via Turkey, Bulgaria, Romania, Hungary, and Austria. This is why Russia, alongside the Eastern European countries, has in recent years become a major supplier of weapons to the Azerbaijani armed forces. A return to armed conflict would undermine the diplomatic efforts of President Medvedev, who, with the direct support of President Sarkozy of France and US President Obama, has attempted in consultations to encourage the leaders of Armenia and Azerbaijan to pursue a peaceful settlement in accordance with the proposals of the Minsk Group. On the other hand, the Russian hardliners around Prime Minister Vladimir Putin also appear to fear a weakening of Russian influence in the region if a peace process does materialize.¹²

Growing Military Tensions

The arms race between Armenia and Azerbaijan, in which the latter has been the driving force in recent years, is a major cause for concern. Thanks to sharply rising oil revenues, Baku can afford to spend significantly more on its armed forces and their equipment than can impoverished Armenia and Nagorno-Karabakh. Over the last decade, Azerbaijan has increased its military spending in real terms by a factor of ten to 1.413 billion US dollars in

11 Cf. Radio Liberty/Radio Free Europe, *Armenian Revolutionary Federation Quits Government*, at: http://www.rferl.org/content/Armenian_Revolutionary_Federation_Quits_Government/1617382.html, 28 April 2009. The Armenian Revolutionary Federation rejects plans for a joint Turkish-Armenian scholarly commission to examine the question of whether Turkey carried out a genocide of Armenians.

12 Cf. Wikileaks Cable 10BAKU134, Azerbaijani President to U/S Burns: "You can't boil two heads in one pot", created 25 February 2010, released 28 January 2011.

2009 without any sign of a corresponding growth in threats to its security.¹³ In 2010, defence expenditure declined slightly by 3.5 per cent because of falling energy prices as a consequence of the global financial crisis.¹⁴ The proportion of the entire state budget that is spent on defence was still as high as 35 per cent in 2000, but has since fallen, and varied between 2004 and 2008 from nine to 17 per cent, according to shifts in energy prices. Military spending as a percentage of Gross National Income (GNI) fluctuated between 2.4 and 3.4 per cent from 2000 to 2009.¹⁵ We should not be deceived by these low figures, as the numbers above reveal. Such rapid increases in the defence budget are also a strong indication that Baku may be planning to retake Nagorno-Karabakh by force.

Between 2000 and 2009, Armenia's defence expenditure experienced slightly less than a threefold rise in real terms, from 94 million to 272 million US dollars.¹⁶ In 2010, SIPRI estimates showed a further rise of 12.5 per cent.¹⁷ Up to 2007, however, the defence budget as a proportion of total state spending fell from 23 to slightly more than ten per cent, and as a percentage of GNI from five to 2.2 per cent.¹⁸ However, this positive trend has started to be reversed since Armenia began to react to Azerbaijan's massive increases in defence spending in 2006. By 2009, Armenian defence spending had again risen to 15 per cent of the national budget. Yet these figures only include a part of Armenia's arms build-up, as they do not take account of the free transfer of Russian arms and ammunition. Between 1993 and 1996, 84 battle tanks, 50 armoured combat vehicles, and 72 artillery pieces were delivered secretly from Russia to Armenia and Nagorno-Karabakh. To this day, the location of these weapons remains unclear. Moreover, little is known about the strength of the forces (both Armenian and Karabakh Armenian) stationed in Nagorno-Karabakh, which operate under joint command. The only published figures on Armenian troop strengths in Nagorno-Karabakh originate in Azerbaijan, and it has so far not been possible to verify them. They are likely to be exaggerated by Azerbaijan to justify its own armament programme. According to these reports, 118 additional battle tanks (+47 per cent) and 181 armed combat vehicles (+65 per cent) and 181 artillery pieces (+61 per cent) arrived in Nagorno-Karabakh between 1997 and 2009.¹⁹ According to Azerbaijan's figures, 371 battle tanks, 459 armoured combat vehicles, and 479 artillery pieces were stationed in Nagorno-Karabakh in 2009. In April 2011, a senior Russian government official admitted to the author that the force concentrations there are the highest in the South Caucasus.

13 This figure is adjusted for inflation and expressed in 2005 constant US dollars.

14 Cf. *SIPRI Yearbook 2011: Armaments, Disarmament and International Security*, Oxford 2011, pp. 208-209.

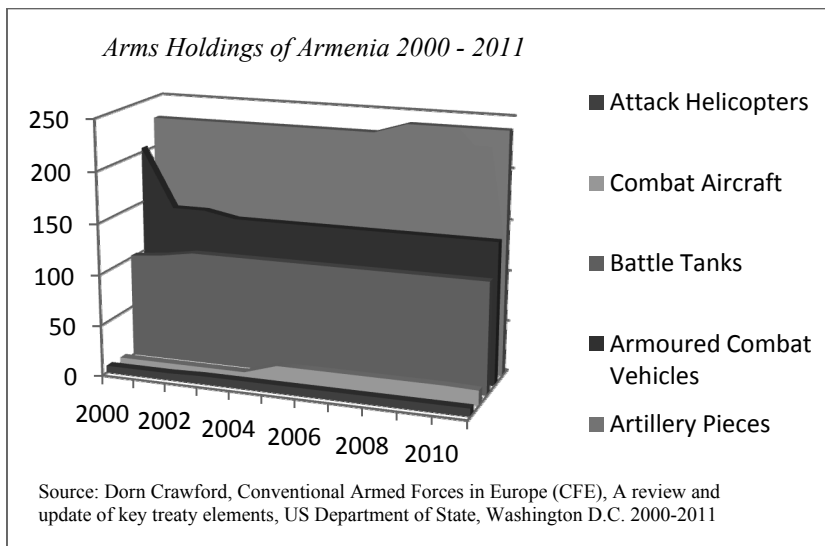
15 Cf. *ibid.*, p. 216.

16 See Note 13.

17 Cf. *SIPRI Yearbook 2011*, cited above (Note 14), pp. 208-209.

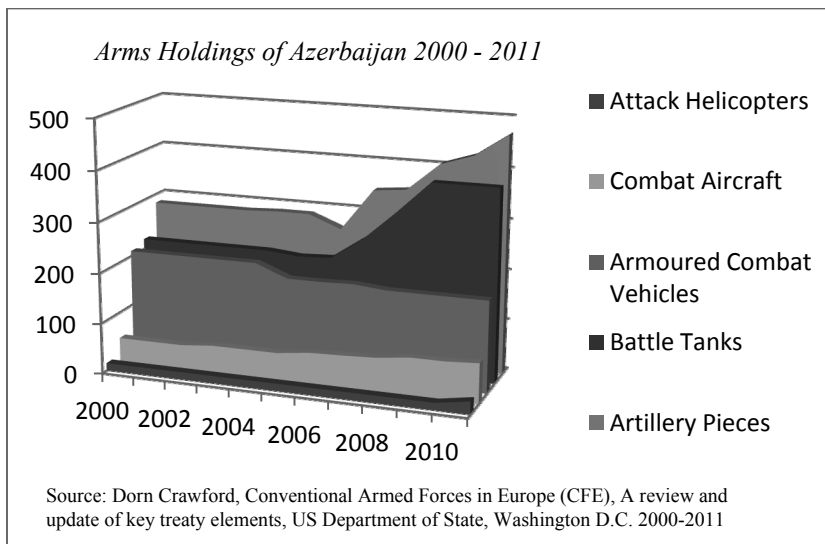
18 For details of these figures, see Schmidt, cited above (Note 10), pp. 8-9.

19 See Permanent Mission of the Republic of Azerbaijan to the OSCE, *Armenian aggression against Azerbaijan: facts and figures based on military analysis*, Vienna 2009.



Given, as the above graph shows, that little has changed at Armenia's military bases in quantitative terms in the last decade, the tripling of the Armenian defence budget appears to suggest rising strengths in Nagorno-Karabakh. As the graph shows, the numbers in four of the five weapon categories have barely risen: Attack helicopters +1, combat aircraft +9, battle tanks +8, and artillery pieces +10. Only in the category of armoured combat vehicles has there been a significant change – a decrease of 64 units – but these were probably relocated to Nagorno-Karabakh. Armenia's annual figures of CFE holdings are distorted by the omission of those weapons deployed in Nagorno-Karabakh.

The commercial and economic embargo imposed by Turkey and Azerbaijan continue to make it hard for Yerevan to import arms. Russia remains Armenia's most important supplier of arms. Slovakia has also provided two combat aircraft and Belarus ten artillery pieces in the last decade, while China is a major supplier of multiple-launch rocket systems. Armenia registers only some of its arms imports with the UN Register of Conventional Arms, probably in order to avoid revealing to Azerbaijan the true strength and degree of modernization of its forces in Nagorno-Karabakh.



Azerbaijan is the largest importer of arms in the Caucasus. Between 2002 and 2009 alone, it bought at least 168 T-72 battle tanks, 37 armoured combat vehicles, 315 artillery pieces, 33 combat aircraft, and eleven attack helicopters.²⁰ The supplier countries include Ukraine, Belarus, Slovakia, Bulgaria, Georgia, Israel (reconnaissance drones), South Africa, as well as Russia, which supplied 62 T-72 battle tanks in 2007 and, since 2008, a further 70 BTR-80 armoured combat vehicles. Moscow hopes that these arms deliveries will help it to increase its influence on Baku's energy policy; at the same time, however, they raise its influence on security policy in case of war. Since Armenia and Azerbaijan are technically still in a state of war – having merely signed a ceasefire agreement – arms shipments of this size, particularly to a country such as Azerbaijan, whose interest lies in changing the status quo, have alarming implications for security. The East-Central European States and Ukraine, in particular, should exercise greater restraint in this regard in the future, precisely since a military conflict in the coming years can no longer be ruled out. The UN Register of Conventional Arms can only fulfil its early-warning function to a limited degree, as transfers are only registered in retrospect, and not before or during their occurrence.

The graph above shows clearly the extent to which Azerbaijan has raised its holdings in four of five categories of weapons in the last decade and since 2006/2007 in particular – sometimes dramatically – thanks to its high revenues from rising oil prices: battle tanks +161, artillery pieces +187, com-

20 Figures derived by the author from the UN Register of Conventional Arms, at: http://unhq-appspub-01.un.org/UNODA/UN_REGISTER.nsf.

bat aircraft +31, attack helicopters +11. Only in the category of armoured combat vehicles has a slight reduction by 30 been registered.

Particularly concerning for Armenia and Nagorno-Karabakh are the improvements in night-fighting and reconnaissance capabilities of the Azerbaijani forces that have taken place since the war in Georgia.²¹ For instance, the eleven Russian Mi-24 Hind attack helicopters imported from Ukraine in 2009 were retrofitted for night-fighting by a South African arms company. Improvements to Azerbaijan's reconnaissance capabilities thanks to the import of Israeli drones may also significantly raise the effectiveness of Azerbaijan's artillery and combat aircraft. In response, Armenia and Nagorno-Karabakh have asked Russia for additional S-300 and new S-400 anti-aircraft systems to improve their air defences. Armenian and Karabakh forces still believe that they possess sufficient military strength, as the mountainous terrain in Nagorno-Karabakh together with the fortified defensive positions give the defending forces an advantage, even against a numerically superior force. Yet fears are growing, as Yerevan simply does not have the financial means available to Baku.

Arms Control Slips Down the Agenda

Now we turn to the question of how the existing European regimes on military confidence-building, such as the Vienna Document, and on arms control, such as the CFE Treaty, can contribute to preventing a potential military conflict of this kind. Unfortunately, the current situation does not look good following Russia's suspension of the CFE Treaty in December 2007 in protest at the failure of the NATO states to ratify the adapted CFE Treaty, which had been signed in 1999. No solution has yet been found to the crisis of conventional arms control in Europe. This also has negative repercussions for the Vienna Document 1999, whose necessary revision has been blocked as a result.²² Regional approaches to enhancing military confidence-building and arms control have also failed so far, generally because Azerbaijan has rejected them on the grounds that it would rather pursue integration with the EU and does not want to be isolated from Europe. While the OSCE did hold a seminar on new regional measures in Odessa in July 2011, the results remain disappointing because two major actors, Russia and Turkey, did not participate. Furthermore, Western CFE states stopped their data exchange

21 Cf. Sergey Minasyan, *Nagorno-Karabakh After Two Decades of Conflict: Is Prolongation of the Status Quo Inevitable?* Caucasus Institute Research Papers, No. 2, Yerevan, August 2010, pp. 44-53.

22 The Forum for Security Co-operation adopted the new Vienna Document 2011 in a special meeting at the end of the year. However, this revision merely updated some technical details. For more information see Pierre von Arx, *Recent Developments in the Field of Arms Control and Confidence- and Security-Building Measures*, in the current volume, pp. 201-223.

with Moscow under the CFE Treaty at the end of 2011, since Russia has not participated in it since 2007.²³ This further weakens the effectiveness of this treaty, which has made a major contribution to preventing this conflict from escalating once more to a state of war.

Despite several weaknesses, the CFE Treaty, with its equal ceilings for both states (220 battle tanks, 220 armoured combat vehicles, 285 artillery pieces, 100 combat aircraft, and 50 attack helicopters each), and its transparency and verification mechanisms, has contributed to the stabilization of the ceasefire agreement. The conflict over the status of Nagorno-Karabakh has so far made more stringent regulations impossible. The government in Stepanakert is willing to co-operate on conventional arms control, but only once its legitimacy has been recognized. Baku rejects this out of hand. Furthermore, Azerbaijan is only willing to include confidence-building measures within the talks on the “Basic Principles” once the status question has been resolved, while Armenia has the reverse priorities.²⁴ It has so far not proved possible to pursue status-neutral military confidence-building measures with the conflict parties. A key measure would be better monitoring of the line of contact, in order to bring about an end to the exchanges of fire that regularly occur there. Here, Russia proposed a new incident-prevention mechanism as a confidence-building measure in its trilateral talks with both parties in March 2011, which seems based on the incident-prevention mechanism for Georgia. However, bilateral negotiations over this mechanism have not been successful so far and are continuing. Yerevan and Stepanakert should also provide more transparency regarding their troops in Nagorno-Karabakh, something that is long overdue.

Since 2001, Baku has failed to report correctly on eight (in 2002 this increased to nine) military sites of its own in Nagorno-Karabakh and the other occupied territories, to which it has no access.²⁵ The units associated with these peacetime locations are currently stationed on Azerbaijani territory, close to the line of contact. However, since 2001, the other CFE states have been prevented from inspecting these units, although they continue to be mentioned in the annual data exchange. This is Azerbaijan’s response to Armenia’s refusal to include its holdings in Nagorno-Karabakh. What makes the situation worse is that Azerbaijan’s holdings in the categories battle tanks and artillery pieces are increasingly breaching the above-mentioned CFE ceil-

23 Cf. U.S. Department of State, *Implementation of the Treaty on Conventional Armed Forces In Europe*, Statement by Victoria Nuland, Washington, DC, 22 November 2011, at: <http://translations.state.gov/st/english/texttrans/2011/11/20111122143004su0.6327479.html>.

24 Cf. President of Russia, *Declaration between the Republic of Azerbaijan, the Republic of Armenia and the Russian Federation*, Moscow, 2 November 2008, at: <http://archive.kremlin.ru/eng/text/docs/2008/11/208708.shtml>. This document was the first in which Azerbaijan accepted confidence-building measures as a tool for conflict settlement.

25 Cf. Bureau of Verification and Compliance, *Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments*, Washington, DC, 30 August 2005, at: www.state.gov/t/avc/rls/rpt/51977.htm.

ings. The same is true of Armenian forces if one includes holdings in Nagorno-Karabakh. There is therefore an urgent need to strengthen the role of military confidence-building and arms control here. This can only hope to succeed if the NATO states and Russia begin to take conventional arms control more seriously once again and overcome the current crisis, particularly since Azerbaijan has already indicated that it has no interest in further reducing its national ceilings.

Conclusions for the Peace Process

Despite the intensified negotiations between the two presidents, military developments in recent years make clear that prospects for a potential peace process are none too good. The war of words has also escalated again since 2009. Baku is increasingly relying on political and military pressure rather than political compromise with Armenia, while Yerevan is relying on its own strength rather than seeking accommodation, as the Armenian president's recent visit to Nagorno-Karabakh underlined. The military situation is a particular cause for concern, with the Azerbaijani side appearing more willing to seek a military solution despite the deterrent effect of the war in Georgia,²⁶ while the opportunities for preventing war by means of arms control appear to be shrinking. This situation can only be tackled if the Western NATO states, Ukraine, Belarus, and Russia start to take military confidence building and arms control more seriously once again. It is particularly imperative that the Eastern European countries that provide Azerbaijan with weapons reconsider their arms-export policies and exercise greater restraint. That applies equally to Russia, which has adopted an ambivalent position in recent years as a consequence of its energy interests.

The prospects for the bilateral peace process have declined despite the improvement of external conditions in the form of Russian-American relations. With elections in both Russia and the US in 2012, these conditions could again deteriorate. In terms of Track II diplomacy, the groups in both societies that are seeking accommodation are still too weak to affect the hostile positions taken by their governments and much of the population, particularly in Azerbaijan. The political elites on both sides still do not appear to be genuinely ready to enter, in Charles Kupchan's terms, the first phase of the peace process, in which there must already be indications of the compromises to be made in the second phase. Russia, the EU, and the US should certainly continue to support efforts to encourage mutual understanding, above all via Track II initiatives. Unfortunately, the second Track II meeting between representatives of the Azerbaijani community and the Armenian community of Nagorno-Karabakh in Berlin on 28 November 2011 failed because the Arme-

26 Cf. André Widmer, Sehnsucht nach Heimat [Yearning for the Homeland], in: *Frankfurter Rundschau*, 29 June 2011, p. 17.

nians did not appear for status reasons. However, a planned follow-on meeting in Moscow in late January or early February 2012 will hopefully have more success.²⁷ They could do more to co-ordinate their efforts than has been the case so far. They can also increase the positive inducements towards a peace settlement by offering the conflict parties additional incentives such as investment in economic infrastructure. The EU should make use of the negotiations on an association agreement with Armenia and Azerbaijan within the scope of the new Eastern Partnership, which commenced on 15 July 2010, to do this.

27 Cf. *Azerbaijani community of Nagorno-Karabakh turns to int'l organizations*, Today.Az, 16 December 2011, at: <http://www.today.az/print/news/politics/99836.html>.

The Political Process in Central Asia and the System Question

Preliminary Considerations and Methodology

Authoritarian regimes, “clan-bureaucratic” capitalism, high levels of socioeconomic inequality and social exclusion, precarious living conditions for large proportions of the population, the coexistence of traditional and modern socialization and value systems, the rapidly increasing influence of religion, above all Islam – this is how one could sketch an outline of the key socio-political characteristics that have taken shape in the Central Asian states in the twenty years since independence.

But this summary, rather problematic from a Western point of view, requires a significant, positive addendum: For the first time in their history, the Central Asian societies possess their own states and are able to determine their own national destiny. For the peoples of the region, this is a historical turning point. Their national self-actualization is revitalizing the traditional civilizational, cultural, and religious aspect of Central Asia. Particularly noticeable is the growing role of Islam, which is the faith of a majority of the population in these secular states. In geopolitical terms, the region is positioning itself as a bridge between Asia and Russia/Europe. The Central Asian states have close co-operative relations with China, India, Pakistan, Afghanistan, Iran, Turkey, and the Gulf states. Central Asia is thus increasingly returning to the fold of Islamic states to which it has historically belonged.

For two decades, the architects of Central Asia’s authoritarian model of government have been responsible for the character and course of the transition from Soviet state socialism to a market economy and a new model of state and society in their young nations. We should not overlook the fact that the simultaneity and parallelism of transformation, state building, and national identity formation create objective challenges for the leadership of any state.

Nonetheless, after 20 years of government responsibility, we have to inquire whether this autocratic type of rule¹ has evolved from being a transi-

1 “Authoritarian regimes are political systems with limited, not responsible, political pluralism: without elaborate and guiding ideology (but with distinctive mentalities); without intensive nor extensive political mobilization (except some points in their development); and in which a leader (or occasionally a small group) exercises power within formally ill-defined limits but actually quite predictable ones.” Juan José Linz, *Totalitarian and Authoritarian Regimes*, Boulder, Co, 200, p. 159. For Linz, authoritarian regimes are not merely a hybrid of totalitarian systems and democratic governments, but a type of system

tional phenomenon to become the systematic constant of state power. There is a lot of evidence that this is the case: on the one hand, the direct and indirect dominance of the holders of political power over the political and economic spheres, and, consequently, in the social balance of power, their unlimited disposition of state power and consequent negation of the division of powers; on the other, a number of factors that currently still benefit the ruling class: the subordination and fragmentation of significant sections of the elite, who could form a counterweight, the traditional conservatism of the society, and the weakness of civil society. This complex of factors, which currently *still* favour the ruling elite, will change to the extent that the grave development deficits trouble relations between state and society and the latter becomes aware of this.

This is already occurring in several states, as the examination of the political process in the region by a group of Kazakh, Kyrgyz, Russian, Tajik, Uzbek, and German experts revealed in 2010/2011. The goal of this project was to gain a deeper understanding of the dynamics and inner logic of socio-political processes in Central Asia. That required an analytical approach that was not oriented on a *single* set of co-ordinates,² but sought rather to discover political, economic, socio-economic, cultural, value, and normative initial determinants and to grant the contradictions in the society an adequate analytical role as drivers of the relevant political processes. A holistic approach of this kind needed to be rooted in empiricism, to be built “from the bottom up”, so to speak. This involved understanding the relationship between those in power and the wider society from a perspective that sees the political process as a dialectical exchange³ between the “political community” (“the members of a political system and their fundamental value patterns”⁴), the “political regime” (“the fundamental structure of the system of institutions”⁵)

sui generis. The researcher therefore requires typologically relevant research parameters and precise criteria to differentiate such regimes from both totalitarianism and democracy. The key feature differentiating such regimes from democratic and totalitarian systems is what Linz calls “restricted pluralism”. See also Juan Linz, *Autoritäre Regime* [Authoritarian Regimes], in: Dieter Nohlen/Rainer-Olaf Schultze (eds), *Lexikon der Politikwissenschaft* [Dictionary of Political Science], Munich 1989, p. 62.

2 E.g. evaluation criteria that are economic, structural, institutional, or oriented on the behaviour of elites, or those that are interested in patterns of rapprochement or distancing of the Central Asian regimes towards the Western political order.

3 “The politico-economic structures of governance form the interface between politics and society. In the moment in which the relationship between the political regime and the structures of governance are involved in transformation, the social problems of the society that have become the object of political manipulation need to be looked at more closely. An approach of this kind takes the formal condition of the political system (polity) and political struggles (politics) seriously and applies them together to the political framing of social processes (policy)”, Michael Brie, *Ordnung aus Anarchie* [Order out of Anarchy], Berlin 2004, p. 19 (this quote and all other quotes from texts in languages other than English are translations by the author).

4 Susanne Pickel/Gert Pickel, *Politische Kultur- und Demokratieforschung* [Political Culture and Democracy Research], Wiesbaden, 2006, p. 79.

5 Ibid.

and the “holders of political power” (“specific holders of political authority roles”⁶), which, in their totality, create the political system. An approach of this kind should make it possible to reach conclusions regarding a political regime’s effectiveness, “measured in terms of its economic and political performance”.⁷ The latter reveals the congruence or incongruence between the interests of the political community and the political regime and makes it possible to draw conclusions on the stability or instability of the political system – in this case the authoritarian model of government that has evolved in Central Asia over the last two decades. Finally, the group of experts translated these considerations into detailed research criteria to carry out country analyses. General conclusions drawn from these country studies form the basis of the present contribution.

The Political Regime and the Holders of Political Power

Michael Brie studied the process by which authoritarian democracy emerged in the context of transformation in the Russian province of Saratov from 1990 to 2000. He characterized the relationship between the “patrimonial power of the governor” and the population as follows:

1. The role of the supreme leader as the holder of all power, all responsibility, leadership, and representation of the common will and as the driving force of every change;
2. the role of the population – people whose support for the rulers contributes to stability and progress, whose activity does not, however, produce any kind of alternative centre of power or autonomous organization;
3. the assignment of responsibility for all problems that do not stem from earlier periods to the subaltern bureaucracy, which inevitably fail to mediate between the rulers and the people;
4. the personification of power (the “cult of personality”);
5. the historicization and traditionalization of power;
6. the reduction of the mass media to the symbolic production of the aforementioned features of patrimonial power.⁸

This characterization of “patrimonialism in times of transformation” applies well to the systems established by the rulers of Central Asia. How can such a total grasp on power be explained?

The uniqueness of power monopolization in Central Asia derives from the specifics of the transformation of ownership in the entire post-Soviet space and the typical behaviour of elites in the transformation process. The latter developed a “post-Communist understanding” of how to assert power

6 Ibid.

7 Ibid., p. 85.

8 Brie, cited above (Note 3), pp. 180-181.

under the conditions of the transition to a market economy, in which the key question concerned the rapid and irreversible transformation of political power into property. Consequently, political power was itself conceived of as a kind of property. Sharing political power was automatically seen as sharing economic power and vice versa, with the result that it is felt better not to share either. This paradigm continues to reign to this day.

With the exception of Kyrgyzstan, in which a second change of regime took place in 2010, the ruling elites of Central Asia controlled all political and economic transformation processes from the start. In the early stages, during the privatization of state-socialist and collective property, they used their resources of bureaucratic and political power to take control of key economic resources. This coupling of political structures with cartels not only helped define the specific nature of the new type of power elite in terms of “domains of personal individual rule”,⁹ it also meant that the political elite simultaneously became the leaders of the new bourgeoisie, establishing the “clan-bureaucratic” type of capitalists. From the very birth of the new states, therefore, power relations were set up to serve the interests of the new system in the economic sphere as well. It is this fusion of political, economic, military, not to mention normative power in the same hands that leads to a superabundance of power and its quasi-feudal features.¹⁰

It is therefore not surprising that all country analyses within the above-mentioned project agree in their evaluation of the status quo: In Kazakhstan, power has a “monocratic character”.¹¹ It is “currently dominated by a single grouping – the one that was formed by Nursultan Nazarbaev and which operates within boundaries staked out by him”.¹² The same can be said of Uzbekistan. “In Tajikistan, contrary to the constitution, the subordination of the formal separation of powers to the president is common practice. There is no event of the slightest social significance that does not come under the control of the president. The dividing lines between republic and monarchy, democracy and autocracy, popular sovereignty and state sovereignty in the hands of

9 Ibid., p. 47.

10 As well as vassalage, feudalism features a central authority that attempts to impose dominion on a territory via military, administrative, and economic means. Cf. Klaus-Georg Riegel, *Feudalismus* [Feudalism], in: Nohlen/Schultze, (eds), cited above (Note 1), p. 234. Further features that are typical of feudalism include a very slowly evolving society, strict rules governing all kinds of activity, a high degree of traditionalism, harsh controls on everyday life imposed by the church, and the dominance of ideology by religion. Cf. Gertrud Schütz et al. (eds), *Kleines Politisches Wörterbuch* [Compact Political Dictionary], Berlin 1988, p. 271.

11 K. L. Syroezhkin, *Sotsial'no-politicheski protsess v Kazakhstane (opyt rekonstruktsii)* [The Socio-Economic Process in Kazakhstan (The Experience of Reconstruction)], in: *Uchrezhdenie Akademii nauk, Institut vostokovedeniya RAN, Tsentr strategicheskikh i politicheskikh issledovani* (ed.), *Politicheski protsess v Tsentral'noi Azii: resul'taty, problemy, perspektivy* [The Political Process in Central Asia: Results, Deficits, Perspectives], Moscow 2011, p. 154, (hereinafter: The Political Process in Central Asia).

12 Ibid., pp. 153-154.

a single individual are becoming blurred.”¹³ The same concentration of power occurred in Kyrgyzstan under the first president, Askar Akaev, whose regime fell in 2005, and his successor, Kurmanbek Bakiyev (2005-2010). Studies suggest that, in Kyrgyzstan, “the creation of the independent state [followed] the principles of family-clan capitalism”.¹⁴

The West’s responsibility for the development of this kind of system should not be overlooked. The strategic components in the West’s approach were: “the revolutionary installation of an entrepreneurial class”,¹⁵ the systematic and comprehensive privatization of state and collective property, the introduction of market-based instruments, the withdrawal of the state from its role as a social provider, and the reorganization of the political system on the model of representative democracy. The West miscalculated completely what the negative long-term political, economic, and social effects would be of insisting on comprehensive reform of relations of ownership by means of the fastest possible privatization of state-socialist and collective property and on the withdrawal of the state from its social responsibility in the context of a traditional society. The beneficiaries of this hasty privatization were the major clans, particularly those of the “first transformation generation”, which are our concern here. Only they possessed the administrative and financial resources, following the break-up of the USSR, to decisively influence the privatization in their interest. As a result, it was not possible either to keep political and economic power apart, or to create the social foundations for an “open society”. The opposite was rather the case: The “bureaucratic clan capitalists” created a type of government that reflected their hybrid socialization, which had both traditional and Soviet elements: the socially exclusive and essentially undemocratic clan hierarchy. “The old historical [...] body politic [...] is defined precisely by the fact that it – in contrast to the ‘political state’ – unites political and economic power in one hand.”¹⁶

It is doubtful whether the “first generation” of clan oligarchs will be able to maintain their rule in the long term. Which is not to say that their passing will expunge the cancer that is the symbiosis of political and economic power concentration. Competition is growing in the form of a new, now mature, entrepreneurial class in the second and third generations. They are interested in a share of power, as already demonstrated in Kyrgyzstan.

13 I.K. Usmonov, *Ternistyi put’ nezavisimosti* (transformatsionnye protsessy v sovremennom Tajikistane) [The Thorny Path of Independence (The Transformation Process in Contemporary Tajikistan)], in: *The Political Process in Central Asia*, cited above (Note 11), here: pp. 364, 347.

14 N.M. Omarov, *Kyrgyskaya Respublika* [The Kyrgyz Republic], in: *The Political Process in Central Asia*, cited above (Note 11), p. 222.

15 Claus Offe, *Der Tunnel am Ende des Lichts. Erkundungen der politischen Transformation im Neuen Osten* [The Tunnel at the End of the Light. Inquiries into the Political Transformation of the New East], Frankfurt/New York 1994, p. 60.

16 Dietrich Jung, *Tradition – Moderne – Krieg* [Tradition – Modernity – War], Münster 1995, p. 139.

Yet they will not give up their economic clout. And these struggles, in their turn, will drive and direct future disputes among the elites of the Central Asian states. But they will “abolish” neither the dominant type of capitalist, nor their aversion to the separation of political and economic power and to an open society and democracy of the Western type.

Additional long-term political consequences can also be observed: “The transformation of former state property did not, as was hoped, lead to the development of independent property ownership and a free market, well-ordered economic and legal relations and a broad middle class. On the contrary, giving priority to privileged groups with regard to property and other networks of relations divided society into a small minority of owners and a majority of the propertyless.”¹⁷

The Political Community – Specifics of Social Organization

The societies of Central Asia have a number of social, political, cultural, and religious features in common, in which elements of traditional, Soviet, and modern socialization are interlinked. The traditional is expressed primarily in the existence of social hierarchies, in which regional, clan, and tribal groupings exhibit a high level of socially integrative power. They develop their own interests, pursue them, and have real influence in society. This gives them the character and the significance of “primary” sub-systems in relation to the holders of political power.¹⁸ Communities based on bonds of solidarity, a relatively high degree of religiosity, and affinity for mystical phenomena are also expressions of a high degree of traditionalism.

The social sub-systems remain trapped within patriarchal mechanisms of rule.¹⁹ They resemble a social “pyramid”, led by a strong individual and councils of elders, who hold the system together by means of a mixture of traditional loyalties and material ties. The point of reference for the collective

17 Syroezhkin, cited above (Note 11), p. 125.

18 Cf. Volker Ronge, *Staatstheorie* [State Theory], in: Nohlen/Schultze (eds), cited above (Note 1), p. 976.

19 “The strong tradition of family or ‘clan’ ties and community structures [...] became more important [...] during transition. [...] they also contributed to the non-transparent capture of political and economic power by various clans. Appointments to positions of political and economic responsibility tend to be allocated on the basis of trust and patronage, rather than through competitive selection. [...] Power structures are based on a delicate balancing of the allocation of privileges and power between clan structures to maintain political and social stability and the lack of dissent by rival clans. Apart from contributing to political exclusion, this balancing arguably contributes to the inability of economies to benefit from the efficiencies of market systems. It also encourages a preference for economic growth models that guarantee rents (unearned income) and control over rent allocation to people in privileged positions.” United Nations Development Programme, Regional Bureau for Europe and CIS, *Beyond Transition. Towards Inclusive Societies, UNDP Regional Development Report*, Bratislava 2011, p. 50, at: <http://europeandcis.undp.org/home/show/BCD10F8F-F203-1EE9-BB28DEE6D70B52E1> (hereinafter: UNDP Regional Development Report).

consciousness of the largely rural population is less the *citoyen*, the bearer of civic rights, although this ideal does already exist in urban areas – both socially and politically – than the group, the extended family, the clan, and the region. These networks are the basis of political rule and foundation of its legitimacy. While, in their totality, these networks do form a kind of pluralism, it is not the unlimited pluralism of Western democracies. In political life, this stands in the way of the creation of independent civil and political institutions and restricts the autonomy of the individual. At present, the increasing impoverishment of the bulk of the population is driving them back into the groups and extended families that function for them as replacements for the vanished social security system.

A historical phenomenon that affects the specific values and behaviours of the political community in Central Asia can be glossed as the “burden of simultaneity”. In contrast to transition processes in the “old” developing nations, where traditional and capitalist elements of socialization co-exist and change has been evolutionary, so that these societies have relatively long periods of time for their adaptation, the Central Asian societies were plunged into an abrupt transformation of their political and economic systems with absolutely no warning. This brought a sudden end to the social egalitarianism that prevailed under state socialist conditions, whose collectivist “we” was more in tune with the traditional communal psyche than that of individualist bourgeois capitalism. Central Asians, with this collectivistic “we”, also feel obligated by the normative values of their traditional belief community, the Islamic “*Umma*”, which shaped their socialization from the end of the seventh century until the start of the Soviet period. Islam, in particular, is undergoing an intensive revitalizing of its influence in the context of state formation and retraditionalization. The consciousness of the populations has consequently had to undergo an enormous adaptation to several – in part mutually contradictory – value and norms systems simultaneously.

Interplay between socio-psychological mentality and socio-economic tension inevitably contributes to politicization among the population, while also charging the whole political process with emotion. Taking that into account when attempting to steer socio-political processes requires a greater level of awareness in the selection of policy and their tactical implementation. Central Asia’s political regimes and rulers are already caught between two stools “in the process between the ideal-typical polar opposites of traditional and bourgeois-capitalist socialization”.²⁰ That is because a traditional society affected by a high level of social exclusion and a lack of opportunity will inevitably focus its anger on those who provoke it via the exclusivity of their political and economic monopoly of power and their exclusive mechanisms of rule. Social unrest, driven by the aggregation of expectations regarding the obligation of the ruler (the state) to make social provision, and hence

20 Jung, cited above (Note 16), p. 162.

a “personifiable” ascription of responsibility for impoverishment, contains the potential for a high level of aggression focused on very specific targets.

Traditionalism should by no means be understood as a fossil, but rather as an evolutionary phenomenon. In the societies of Central Asia, it is based on an “understanding of legitimacy based on [traditional – author’s note] customary law and the norms of Soviet administrative law. Yet it is precisely this peculiar synthesis that determines the ground rules both within the political class and in its relations with society.”²¹ This hybrid logic effectively makes possible the “strong leader” characterized by both economic and political power. Both the traditional and the Soviet hierarchies encourage the population to internalize this figure. However, the traditional community burdened him with obligations – he was “responsible for the physical and material security of the body politic [author’s note: today, we would likely say ‘political system’]”.²² The social psyche of the community is therefore oriented towards an inclusive balance of power and rejects long-term exclusive ambitions for power on the part of *one* of its *sub-systems*, which may be regional, such as Kulob or Danghara in Tajikistan, or north and south, as in Kyrgyzstan. It becomes even more exclusive when the leader does not fulfil his duties of guaranteeing the reproduction of the material basis of existence of the (“pyramidal”) society as a whole. The great difficulties that a particularistic and authoritarian model of government can expect in Central Asia grow out of this combination of traditional duty and the failure to guarantee the survival prospects of the majority of the population.

Political Regime – Holders of Political Power – Political Community

The socio-political effectiveness of a political regime can be measured in terms of how it copes with two central criteria – its ability to guarantee the reproduction of the material and immaterial conditions of existence and development of the society, and its co-ordination of the interests of a variety of “primary” social (sub-)systems. The critical point here is “to balance the desire for centralized governance with the desire for autonomy on the part of the other systems”.²³ This is a key issue for relations between the holders of state power and the societal sphere: How do they cope with the inner logic of the “pyramid”? How the holders of power deal with these factors and the results that they achieve reveal the extent to which an identity of interests exists between them and the political community that is able to ensure the stability of the state they share.

In order to evaluate effectiveness, it is necessary to take account of a further key factor: the historical experience of the societies. They have direct

21 Syroezhkin, cited above (Note 11), p. 165.

22 Jung, cited above (Note 16), p. 141

23 Linz, *Autoritäre Regime*, cited above (Note 1), pp. 61-62.

experience dating from as far back as the first quarter of the twentieth century, and one must not forget that, before independence 20 years ago, there was a long period of state socialism, which was characterized by state and collective ownership and full employment. During this time, the central budget of the USSR was used to subsidize the finances of the Soviet Central Asian republics. As late as 1990, as much as 40 billion US dollars flowed into the region from this source. Uzbekistan, for instance, covered some 75 per cent of its social expenditure (six billion US dollars) by this means.²⁴ “All in all, the population of the Central Asian republics had a relatively high standard of education, healthcare, culture, art, and prosperity. Literacy stood at nearly 100 per cent. Middle school attendance was compulsory. Incomes were not high, but at least they were secure and stable.”²⁵

The level of development achieved in 1991 was the result of the first transformative leap taken by the Central Asian societies, which, if one takes the 1920s as the starting point, had led them out of feudal conditions only around 70 years previously. What feudal conditions meant for the bulk of the population can be demonstrated with reference to Tajikistan.

The elite in the eastern part of the emirate of Bukhara, which became Tajikistan, was largely focused on the Emir’s divan (council), his administration, and the Islamic clergy. In 1926, merely 2.2 per cent of the overall population were literate, falling to 1.2 per cent in rural areas, and only 0.3 per cent of women and girls.²⁶ In the period from 1927 to 1929, only 16 boys and nine girls out of every 1,000 children attended primary school. Compulsory education was not introduced until 1932-33. Following a major literacy effort, 71 per cent of the population were able to read and write by 1939, although by 1940 only 3.3 per cent of teachers had a tertiary qualification. In 1926, the Autonomous Socialist Soviet Republic (then part of Uzbekistan, from 1929 the Tajik Socialist Soviet Republic) possessed 20 engineers, eight agriculture specialists and 23 doctors, mostly of Russian origin.²⁷

The shock caused to the societies of Central Asia by the breakup of the Soviet “common home” and its aftermath was thus all the more drastic. The first years of independence saw a catastrophic deterioration in economic productivity caused by the collapse of the USSR and its economy, which was based on the division of labour among the constituent republics. The destruction of the system of social reproduction under state socialism as a consequence of the privatization of state and collective property with no replacement was particularly damaging. The collective sector, in particular, played a vital function in providing the population with consumer goods, housing,

24 Cf. V.V. Paramonov, *Respublika Uzbekistan v kontekste transformatsii* [The Republic of Uzbekistan in the Context of Transformation], in: *The Political Process in Central Asia*, cited above (Note 11), p. 239.

25 Usmonov, cited above (Note 13), pp. 300-301.

26 Khanna N. Drikkar, *Formirovanie klassov sotsialisticheskovo obshchestva v Tajikistane* [The Formation of Classes in the Socialist Society of Tajikistan], Dushanbe 1983, p. 72.

27 Ibid., p. 73.

medical care, recreational facilities, nurseries, educational and cultural institutions, and senior care. These social consequences of the Western focus on neoliberal “shock therapy” hit the economically weaker states like Kyrgyzstan and Tajikistan especially hard. They have not been overcome by most Central Asian states to this day.

Comparing the two phases of transformation that have swept through Central Asian societies in around three quarters of a century – from the deepest oriental feudalism and sultanism into Soviet-type state socialism, and from there into capitalist modes of production and appropriation – leads to the following preliminary conclusion: If economic and social development followed an upwards path through most of the twentieth century, the second, current phase of transformation has meant stagnation or even regression for the bulk of the population.

The System Question – The Divergence of the Interests of the Political Community and the Holders of Political Power

The rule of Central Asian societies by political regimes and leaders of the same type under similar social conditions has produced a number of parallel serious development deficits. These deficits illustrate in which areas and to what extent the interests of two foundational pillars of the political system – the political community and the holders of political power diverge. This clash of interests, its recognition, transformation into desires, demands, and actions in the political community, and the reaction and actions of the holders of political power will determine and energize political processes in the region for years to come.

The development deficits can be assessed with reference to the following general questions: In 20 years of transformation and state formation, were the holders of political power effective enough to steer their states onto the path of modernity (which requires us to pose and answer the question of the “modern Central Asian state”), to enable the dynamic growth of productive forces, and to offer the population satisfactory quality of life and prospects?

Framed in *these terms*, the system question is not identical with the question of power. However, the latter would be provoked by the rulers themselves if they excluded critical and self-critical reflection on the effectiveness of their regimes and the consequences that can be drawn from it.

What development deficits could disturb the internal stability of the political systems?

Weak Economic Fundamentals for Self-Sustaining Economic Development

With the exception of Kazakhstan and Turkmenistan, where the presence of oil and gas grants both rent income and a limited boost to industrialization,

the young states of Central Asia find themselves in the same initial position as most developing countries: They are dependent upon the mining and export of raw materials and energy, i.e. fossil fuels and hydroelectric power, precious metals, cotton, ore, aluminium, and uranium. The export of workers and their remittances are currently a “lifeline for the Central Asian countries of origin” Kyrgyzstan, Tajikistan, and Uzbekistan, which demonstrates that the economic foundations of these states are too weak to support a significant proportion of their working-age population.²⁸

The strategic risks of this one-sided economic profile are well known: technological underdevelopment, a high degree of dependency on the fluctuating market price of raw materials, unemployment, and environmental degradation. Furthermore, the profits from the export of raw materials are appropriated by small groups of entrepreneurs, which suppresses domestic growth and exacerbates social polarization.

Unacceptable Living Conditions

The entire region is today confronted by a fundamental deterioration in social living conditions. This is no longer primarily about the negative *quantitative* parameters of low per capita income, high levels of poverty and unemployment, and poor or non-existent social security systems.²⁹ It is now more about the *qualitative* leap in terms of mass social exclusion and division within society. This “depth effects” are described in the UNDP’s 2011 report on social development indicators in the period since the start of transformation:

The Social Exclusion Index shows that people in Central Asia face a particularly high risk of social exclusion. [...] Economic growth has not led to the creation of decent jobs for the large rural populations of Central Asia, leading to widespread underemployment, large concentrations of rural poverty, and the emergence of labour migration – internal and external – as a dominant coping mechanism. Economic exclusion in turn contributes to exclusion from social services, due to the inability of the people with low-incomes to make informal payments, which augment

28 In the boom years from 2004 to 2008, some 500,000-800,000 Kyrgyzstanis, 600,000 Tajikistanis, and more than two million Uzbekistanis left their homelands to search for work. Of these, around 60 per cent of Uzbekistanis, 80 per cent of Kyrgyzstanis, and 90 per cent of Tajikistanis went to work in Russia. In 2008, the estimated total value of remittances sent to Tajikistan amounted to 49 per cent of GDP; in Kyrgyzstan, the figure was 27 per cent; in Uzbekistan, 13 per cent. Their enormous importance becomes clear if one considers that they represent a far greater source of income than official development assistance and foreign direct investment. According to a 2007 survey of economic migrants in several Russian cities, between 17 and 29 per cent of their families at home were wholly dependent on their transfers of money, 35-50 per cent depend on remittances for half their income, and 11-26 per cent for a quarter. Cf. Brigitte Heuer, *Harte Zeiten für Arbeitsmigranten* [Hard Times for Economic Migrants], in: *Zentralasien-Analysen* 27/2010, 29 January 2010, pp. 2-6, here: pp. 2 and 4.

29 As is the case in Tajikistan.

the extremely low shares of GDP spent on health. Economic exclusion is in many cases being passed on to future generations, as urban/rural differences mean, for example, that children are denied access to decent secondary schooling, and may face pressures to stay at home to help with the household. Younger children lack access to pre-school education, which would help give them a good start and make up for disadvantages they may face at subsequent levels of education. Lack of investment in social infrastructure has left rural populations without guaranteed reliable sources of energy, heating, or running water, compounding income and employment insecurities.³⁰

According to this report, 32 per cent of the population of Kazakhstan and 72 per cent in Tajikistan can be described as “socially excluded”.³¹

A large “informal employment sector” has developed, which already accounts for more than 50 per cent of the job market in Central Asia.³² Those who work in it lack formal contracts, insurance, or pension rights. This last factor means that impoverishment will continue to increase in the future. These workers form a class that inhabit socially fragile, slum-like suburbs that surround the urban centres with a potential social “crisis belt” and whose often ethnically mixed population is also a further source of conflict potential.

Youth Problems

The population of the Central Asian states is growing steadily younger. With overall growth currently at 1.7 per cent, 30 per cent of the population is now under 15. This structural problem is becoming acutely apparent in terms of youth unemployment, which, with the exception of Kazakhstan, is estimated to be above 20 per cent.³³ A quarter of the population of Kazakhstan was born after 1991. Children (0-14 years old) and young adults (15-29) make up 33 and 28 per cent of the socially excluded population in Kazakhstan, respectively; and 73 and 72 per cent Tajikistan.³⁴ In 2005, the proportion of children in households with daily per capita consumption below 2.50 US dollars was 90 per cent in Kyrgyzstan, 80 per cent in Uzbekistan, and 75 per cent in Tajikistan.³⁵ Of Tajikistan’s 1.5 million economic migrants, 15-

30 UNDP Regional Development Report, cited above (Note 19), p. 50. The report counts as social exclusion: “poverty, lack of basic competencies, limited employment and educational opportunities, as well as inadequate access to social and community networks and activities.” Ibid., p. 8.

31 Cf. *ibid.*, p. 38.

32 Cf. *ibid.*, p. 25.

33 Cf. Andrea Schmitz/Alexander Wolters, Revolutionen in Zentralasien? [Revolution in Central Asia?], in: *Zentralasien-Analysen* 43-44/2011, 29 July 2011, pp. 2-5, here: p. 2.

34 Cf. UNDP Regional Development Report, cited above (Note 19), p. 43.

35 Cf. *ibid.*, p. 18.

29-year-olds make up 53 per cent.³⁶ In the Tajikistani agricultural sector, under-40-year-olds comprise 83.6 per cent of the unemployed.³⁷

An analysis of the situation in Kazakhstan characterizes youth unemployment in the following terms:

Many of the youth unemployed have a university education, often acquired abroad.

Yet no one needs these young specialists. On the one hand, those already established in their fields see them as unnecessary competition. On the other hand, a process of consolidation is underway among the marginalized youth, at least among internal migrants. They have begun to settle in the suburbs of major cities where they are less subject to control. More than 60 thousand migrants of this kind live in the suburbs of Almaty alone. Many of them join radical groups. Recently, it has been observed that young people are increasingly joining pseudo-religious groups – including groups classified as extremist.³⁸

Sociological research in the region has determined that the critical socio-economic situation and increasing archaization of social relations, particularly among young people, has a deformational effect on the value system and the socio-cultural sphere. The weakness of the productive sphere and the high rate of unemployment threaten the position of work as the central source of income and raise the attractiveness of non-productive, parasitical sources of income. “Dependency, compulsion, the absence of a sense of responsibility, vertical hierarchies, authoritarianism, subordination [...] A socio-cultural archaization process is taking place in social relations and the way human life is lived. [...] The impoverishment of the world of work is the social price that we are paying for the reforms.”³⁹

The Political Exclusion of the Majority

The majority of the population was subjected to the sudden irruption of forces outside their control not only in the economic and socio-economic spheres, but also in a political sense. The “masses” received no opportunity to have a democratic voice in the decisions that would determine the socio-political orientation of their young state, the nature of its political system, or in any other reforms. The political management of the transformation processes lay in the hands of forces whose social and political concerns were not conducive to the goal of creating a more just society. The new political power

36 Cf. Khojamakhmad Umarov, *Krisis v Tajikistane* [The Crisis in Tajikistan], Dushanbe 2010, p. 217.

37 Cf. *ibid.*, p. 218.

38 Cf. Syroezhkin, cited above (Note 11), p. 146.

39 Shonazar Shoismatulloev, *Tajikistan v zerkale preemstvennosti i smeny pokoleni* [Tajikistan in the Mirror of Continuity and the Changing Generations], Dushanbe 2008, p. 195.

was, like its Soviet precursor, undemocratic. It proved to be monocentrist, authoritarian, only limitedly pluralistic, lacking an ideology that could forge a national identity, and uninterested in a democratic mobilization of its population to co-determine state-formation processes. In the area of religion, it continued the Soviet conception of secularism. This separated the state from the *religion* followed by its population, in contrast to the European understanding of secularism, which separates the state (state power) from the *church*. The new secular power subjected religious life to its control; it has restricted religious freedom, and tends to see Islamic political figures as opponents. On the whole, these features of the regime made it harder for democratization and political flexibility, which are necessary to reduce inner tension and to create the broadest possible social consensus on central questions of transformation, state formation, and domestic conflict prevention.

The Fragility of the Political System

The fact that the Central Asian political regimes appear as monoliths with features of police states cannot disguise the fact that they are only supported by a narrow section of the population. The development deficits outlined above will inevitably undermine the trust of the population in their governments. According to the UNDP, this is already the case in the region: “People don’t trust [...] government institutions, which are supposed to protect their interests. [...] a lack of trust in institutions leads to a breakdown in the social contract between citizens and the state.”⁴⁰

According to the *habitus* of traditional society, this means that the “social contract” between clans and families, on the one hand, and the state, on the other, has been broken. The social pyramid has, in a way, been reversed, as the holders of political power do not represent the overarching interests of the political community or fulfil the expectations placed in them to create for the former real gains in their quality of life and conditions of reproduction. If the aim of transformation is to replace one type of society with a better one, there is no denying that this has not been achieved.

There are many reasons for this, some of them objective and irresolvable in the short term. But regardless of this, these basic expectations of the political community and the ability or inability of the holders of political power to fulfil them create the fundamental contradiction in the political process. As long as the holders of political power and the political community do not begin to resolve it, the political system will be in a state of latent crisis. This will manifest most strongly where economic weakness, socio-

40 UNDP, Regional Development Report, cited above (Note 19) pp. 3, 32.

economic upheavals, and failings of political leadership overlap and reinforce each other. This already seems to be the case in Kyrgyzstan and Tajikistan.⁴¹

Whether and in what form the crisis is transformed into open conflict depends largely on two factors: First, on the subjective perception of the contradictions and their translation into language that the majority of the political community can relate to; and second, on the balance of power between the conflict parties. The character of the contradictions is also crucial: whether they can be resolved on a peaceful, consensual basis, or are more antagonistic, i.e. based on seeking the exclusion of other parties.

The contradictions concerning the resolution of the *social questions* and the conflicts that can be expected to arise from them can easily have a broad impact on society and may lead to the questioning of fundamental issues, such as the political order and orientation of the state as a whole. This cannot be ruled out in Central Asia with its Muslim majority. The coupling of social protests and religious (i.e. Islamic) values is already well under way. It seems likely to be only a matter of time before political Islam comes into play with language demanding social justice. The mechanisms by which such a development could become manifest are well known: First, the social hopes of the population are expressed in religious guise, to be transformed, in a second stage and under certain conditions, into concrete political goals – the demand for an Islamic state.

A development of this kind would compensate for the fact that, in the Central Asian political scene, there is a shortage of influential social movements, trade unions, and left-wing parties and movements with alternative projects for social justice. Furthermore, the broad appeal of the secular political parties is in any case relatively small and continues to decline.⁴² As a consequence of this, the enormous human protest energy produced in response to the social question benefits political Islam.

41 Youth unemployment in Tajikistan is estimated by local experts to be around 60 per cent. In 2007, 17.4 per cent of the population were unable to meet their basic nutritional requirements. Both Kyrgyzstan and Tajikistan do poorly in the UNDP's Human Development Index, with Kyrgyzstan placed 126th and Tajikistan 127th of 187 states (with the Democratic Republic of Congo at 187 and Norway at 1); see *UNDP Human Development Index (HDI) – 2011 Rankings*, at: <http://hdr.undp.org/en/statistics>. The Fund for Peace's Failed State Index gives Kyrgyzstan a score of 91.8 (out of a maximum of 120) and places it 31st (of 177 states), while Tajikistan ranks 39th with 88.3 points (the highest position is held by Somalia with 113.4 points, while the least failed state is Finland with a rating of 19.7); see The Fund for Peace's Failed States Index at: <http://www.fundforpeace.org/global/?q=fsi>. Indicators contributing to the overall score include the massive movement of refugees or internally displaced persons, uneven economic development, poverty, and violations of human rights and the rule of law.

42 The UNDP's Regional Development Report concludes: "Participation in any kind of association, club or leisure group is lowest in Central Asia (Tajikistan {21 percent} and Kazakhstan {21 percent} [...]). [...] Six percent of respondents in the Social Inclusion Survey reported taking part in some political party activity (a distant second behind participation in cultural events). Politically active men in Tajikistan [...] account for 14 [...] percent of survey respondents [...]. At 4 percent, Kazakhstanis reported the lowest participation in political parties. Women are strongly under-represented in political life." UNDP Regional Development Report, cited above (Note 19), pp. 31-32.

The overthrow of two rulers in Kyrgyzstan enriches the political process in Central Asia with new experiences and questions regarding two further fields of conflict: property law and the ability of the rulers to co-ordinate the interests of social (sub-)systems so as to reduce the likelihood of conflict.

The Property Question

The conclusive and constitutionally guaranteed de facto protection of ownership is a key conflict factor among the Central Asian elites. In the region, the de jure legalization of private property by no means guarantees de facto ownership rights. These depend critically on tolerance from the authorities. Arbitrary expropriation by “interested” members of the ruling class is still the norm. In Kazakhstan, a sociological study found that 56 per cent of entrepreneurs were unhappy with their dependence on the ruling political elite.⁴³ In Kyrgyzstan, the assumption of power by the second president Bakiev led to the large-scale confiscation and redistribution of property.⁴⁴ This type of conflict has become a highly contentious political issue owing to the intertwining of political and economic power. This is because, in the two revolutions in Kyrgyzstan, the simultaneous, well-nigh “automatic” loss of political rule *and* economic property – for the first time in Central Asia – resulted in genuine form of political competition and fragmentation both within and between the elites. The extent to which this new reality has encouraged the holders of political power to consider how they will secure at least their economic property remains uncertain. It may therefore be assumed that the new bourgeoisie as a whole would be prepared to agree to uphold the principle of the separability of political and economic power, which has already become the norm, if only in the form of a set of universally applicable ground rules. If this should not prove feasible, the property issue will not only continue to have the power to divide the elite, it could also mushroom into a genuine conflict.

Co-ordinating the Interests of Social (Sub-)Systems

With the abolition of the presidential system and the transition to parliamentarianism, the group that came to power in Kyrgyzstan in 2010 drew the consequences of the failure to resolve the conflict of interests between the regional elites of northern and southern Kyrgyzstan by peaceful means. The previous presidents, Akaev (from the north) and Bakiev (from the south) had failed to deal with this, which had led to two coups d'état – one by the south against the north, one in the opposite direction. This raised an issue of general regional relevance: the tendency for the formation of “individual centres

43 Cf. Syroezhkin, cited above (Note 11), p. 133.

44 Cf. Omarov, cited above (Note 14), p. 213. The same phenomenon was observed in Ukraine during Yulia Tymoshenko's short tenure as prime minister.

of gravity with pretensions of socially rooted validity. [This] threatens to upset the balance between the various centres and leads to conflicts of interests between nearly all the groups within the political establishment. As a consequence of this, the political landscape, which had appeared rather homogeneous up to now, will, in view of the lack of regulated succession mechanisms, be transformed into an arena for conflicts of interest and rivalry between groups and alliances.”⁴⁵

By raising the question of the coherence of the political regimes of Central Asia, the Kyrgyzstani decision placed a critical issue on the Central Asian and European political agenda, and particularly the agenda of the OSCE. This is especially true if we bear in mind that the states of the OSCE region committed themselves in 1990 to “to build, consolidate and strengthen democracy as the only system of government”.⁴⁶

This creates a dilemma: On the one hand, the West is not happy with the form of the presidential regimes in Central Asia, which do not conform to its understanding of democracy. On the other, these regimes appear to clash with the specific nature of the traditional organization of their own societies. The Central Asian regimes are thus caught in a bind both domestically and internationally.

Central Asia specialists already expressed their doubts about the choice between presidential and parliamentary forms of government under Central Asian conditions in their analyses of the 2010 change of regime in Kyrgyzstan: “For the still relatively weak states of Central Asia, the presidential form of government, with its concentration of power in the hands of the head of state and the lack of a system of separate powers and counter-powers, has proved less than optimal. However, precisely evaluating the pros and cons of presidential and parliamentary republics is extremely difficult. For all the negative aspects of presidential government, furnishing the parliament with greater powers would – in view of the fragmentation of society, inevitable conflicts of interest, and electoral manipulation – make a country ungovernable.”⁴⁷

On the other hand, the current situation in which power is monopolized by societal minorities intensifies the contradiction inherent in the “pyramid” between the obligations of the ruler towards society as a whole (responsibility “for the physical and material security of the body politic”⁴⁸) and the permanent competition and mistrust between the sub-systems of the political community and towards the holders of power. The traditional system corres-

45 Syroezhkin, cited above (Note 11), p. 189.

46 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, here: p. 537.

47 Arne Seifert/Irina Zvyagelskaja, *Razvitie politicheskoi situatsii v gosudarstvakh Tsentralnoi Azii v kontekste transformatsii* [The Development of the Political Situation in Central Asian States within the Context of Transformation], Moscow 2010, pp. 9-10.

48 Jung, cited above (Note 16), p. 141.

ponded to these two different directions of tension, which mutually exclude and complement each other and, in fact, embody a specific variety of powers and counter-powers by means of informal, not (yet) institutionalized mechanisms for the co-ordination of interests (*"Mahalla"* and other forms of consultation) between clans, extended families, tribes, and recognized leaders. In this way, a "social contract" on key strategic questions came into being, which could claim to be grounded in and legitimized by traditional structures. By contrast, the current situation, in which power is more or less monopolized by a minority, turns this system on its head, provokes the social habitus of the traditional society, and robs it of its "natural" ability to manage conflicts.

This raises the question of the "strong state" – an indispensable precondition for the management of the complex transformation and state-formation process – its character and compatibility with democracy, and the specifics of the latter's implementation in Central Asia. The answer can be found in the expression "strong state" itself. Under the given circumstances, this has to be a regime that is capable of placing the "pyramid" back on its feet, i.e. on a broad social base. An "intermediary" system of government is most likely to be able to do this. It would have to be in a position to create constitutionally well grounded mechanisms for compromise between the sub-systems and the political regime. That would have the advantage of taking into account the transitional nature of society, in which traditional and emerging bourgeois forms of socialization coexist and come into conflict. This would open the way to a form of representative democracy specific to Central Asia while also preparing society to take this step. Thanks to its mechanism of compromise, it would have the advantage of being able to react flexibly to social tensions. In an evolutionary process of this kind, a style of government can develop that is more focused on the interests of the political community, which will also affect the character of political rule – away from direct, authoritarian interventions in society, from a single source of power (based on particular interests), and from the autonomy of the state. "As a result, transparent ground rules emerge, politics become more open, and society's control of its rulers improves. A process of this kind increases the legitimacy of power and property, gives the political system an injection of energy, and raises the stability of the country. Society is empowered to contribute to solving existing problems and thus assumes its share of responsibility for the future of the country."⁴⁹

49 Syroezhkin, cited above (Note 11), p. 156.

Comprehensive Security: The Three Dimensions and Cross-Dimensional Challenges

Recent Developments in the Field of Arms Control and Confidence- and Security-Building Measures

The Interlocking Web of Arms Control Arrangements

The participating States of the Organization for Security and Co-operation in Europe (OSCE) have succeeded in establishing a unique set of complementary, mutually reinforcing arms control arrangements, thus creating a culture of openness and transparency between states. The Treaty on Conventional Armed Forces in Europe (CFE Treaty), the Vienna Document (VD) on the Negotiations on Confidence- and Security-Building Measures (CSBMs), and the Open Skies Treaty have been key instruments for ensuring military predictability, verifiability, stability, and transparency within the OSCE area. Together with the Code of Conduct on Politico-Military Aspects of Security and regional and bilateral CSBMs, they form a solid and unique *acquis* of principles and commitments in the politico-military sphere. This web is crucial for the security of all participating States, irrespective of whether they are parties to a specific arrangement or not. Preserving, strengthening, and modernizing this *acquis*, while ensuring full and equal compliance with all the commitments it entails, remains vital for achieving military stability, security, and co-operation.

However, negotiations on two of these three key instruments have currently reached a stalemate. The 2011 Annual Security Review Conference (ASRC), held from 29 June to 1 July 2011, confirmed the recent political difficulties encountered with the Open Skies Treaty at the Open Skies Consultative Commission, the enduring deadlock of the CFE Treaty, and the impasse of the discussions on a “Framework for Negotiations to Strengthen and Modernize the Conventional Arms Control Regime in Europe”.

In this context, updating the VD is a strategic objective that will give impetus to the politico-military dimension of the OSCE. The VD is a success story and has proven to be a well balanced instrument with a high level of implementation; moreover, the participating States welcomed the significant progress that was achieved on its revision in 2010 and 2011. The adoption of a new version of the VD in time for the Ministerial Council in Vilnius could be the start of a comprehensive process of adapting the arrangements to cur-

Note: This contribution was written in July 2011, after the 2010 Astana Summit and prior to the 2011 Review Conference of the CFE Treaty and the 2011 Ministerial Council.

Disclaimer: This courtesy contribution represents the views of the FSC (Forum for Security Co-operation) Chair's Co-ordinator for the Vienna Document and is not an official OSCE document.

rent and future politico-military realities, ultimately increasing pan-European security.

Almost all participating States continue to underline the central and strategic role of the CFE regime in the web of interlocking agreements. It is also widely recognized that the VD cannot replace the CFE's contribution to security in Europe, but that the two documents complement each other. In spite of the persisting differences of opinion, insufficient political will, and the incapacity to break the current deadlock, the States Parties to the CFE Treaty have recognized the importance of continuing to seek ways of overcoming the crisis of the regime on conventional arms control in Europe.

In this context, it is necessary to recall that the aims of the CSBMs contained in the VD are not the same as the goals of the CFE Treaty. The VD is politically binding on all 56 OSCE participating States, committing them to more transparency, while the CFE Treaty is a legally binding regime negotiated between 30 States Parties, obliging them to respect and implement thresholds and reductions.

The Open Skies Treaty has proven to be a useful instrument for transparency and predictability and a successful CSBM in itself. The States Parties have noted the recent political difficulties encountered with the Open Skies Treaty with concern and expressed their hope that the problems encountered at the Consultative Commission can soon be resolved.

The 2010 OSCE Summit

At the 2010 Astana OSCE Summit, the Heads of State or Government of the OSCE participating States gave new impetus to conventional arms control and CSBMs. They expressed their political will to restore trust and confidence in the politico-military dimension and praised the work of the Forum for Security Co-operation (FSC). The OSCE Summit adopted the Astana Commemorative Declaration,¹ which has several elements that relate to the politico-military dimension. Paragraph 8 is dedicated to arms control and CSBMs. It also tasks the FSC with updating the Vienna Document 1999 (henceforth: VD 99). The Heads of State or Government expressed their will to overcome the differences in their perceptions of the security situation and called on the participating States to work in a spirit of openness, while fully implementing existing commitments:

1. [...] more must be done to ensure full respect for, and implementation of, these core principles and commitments that we have undertaken in the politico-military dimension [...]

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, at: <http://www.osce.org/mc/74985>.

7. Serious threats and challenges remain. Mistrust and divergent security perceptions must be overcome. Our commitments in the politico-military, economic and environmental, and human dimensions need to be fully implemented. [...]
8. Conventional arms control and confidence- and security-building regimes remain major instruments for ensuring military stability, predictability and transparency, and should be revitalized, updated and modernized. We value the work of the Forum for Security Co-operation, and look forward to the updating of the Vienna Document 1999. We value the CFE Treaty's contribution to the creation of a stable and predictable environment for all OSCE participating States. [...]
11. We welcome initiatives aimed at strengthening European security. Our security dialogue, enhanced by the Corfu Process, has helped to sharpen our focus on these and other challenges we face in all three dimensions. The time has now come to act, and we must define concrete and tangible goals in addressing these challenges. We are determined to work together to fully realize the vision of a comprehensive, co-operative and indivisible security community throughout our shared OSCE area. [...] We [...] will be guided by the principles of equality, partnership co-operation, inclusiveness and transparency. [...]
12. [...] Progress achieved will be reviewed at the next OSCE Ministerial Council meeting in Vilnius on 6 and 7 December 2011.

Consequences for the 2011 Ministerial Council

In line with the priorities set by the 2010 OSCE Summit, updating the VD is one of the key tasks whose results are to be presented at the 2011 Ministerial Council in Vilnius. Since the last revision of the VD took place twelve years ago and the conventional arms control regime in Europe is currently deadlocked, its adoption would be one of the highlights of 2011.

Adopting the new VD ("VD 2011")² will have an impact on the other Ministerial Council decisions elaborated by the FSC. It would affect both the decision on the "OSCE Programme for Further Action in the Field of Arms Control and Confidence- and Security-Building Measures" and the "Decision on the Issues Relevant to the FSC", which outline the mandate and tasks of the FSC in 2012. Since the participating States are calling for a substantial revision of the VD, it would be wise to adopt a decision welcoming the

2 According to FSC Decision No. 1/10 of 19 May 2010, the Vienna Document shall be updated and revised on a regular basis and reissued every five years (or more frequently), starting not later than 2011. Cf. OSCE, Forum for Security Co-operation, Decision No. 1/10, Establishing a Procedure for Incorporating Relevant FSC Decisions into the Vienna Document, FSC.DEC/1/10, 19 May 2010, p. 1.

“modernized” VD and the progress achieved in 2011, but also strongly urging the document’s continuous substantial revision. This would also acknowledge that the modernization of the document should be seen as an ongoing process.

Therefore, the adoption prior to the Ministerial Council of the modernized VD – or the failure thereof – will influence not only the work of the FSC, but also the results to be presented at the Ministerial Council. The foreign ministers will attend the Vilnius Ministerial Council with a more positive attitude if it promises clear deliverables in terms of the tasks outlined in the 2010 Astana Commemorative Declaration. Thus, the reputation of the OSCE will depend on the adaptation in due time of the Vienna Document.

The Vienna Document

The adoption of the VD in 1990 represented a milestone in confidence- and security-building throughout the entire OSCE region. Its achievements included strengthening transparency and predictability in military affairs, facilitating military contacts, and underpinning early warning and crisis prevention. Since its adoption in 1990, the VD has been updated in 1992, 1994, and 1999.

The VD 1990 built upon the 1975 provisions of the Helsinki Final Act on early notification of military exercises involving 25,000 or more military personnel, and the provisions of the 1986 Stockholm Document, i.e. the concluding document of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (1984-1986), on prior notification and observation of military activities and verification measures. The VD 1990 was updated in 1992, mainly to include the fifteen new OSCE participating States. The VD 1994 provided additional parameters for prior notification and observation of military activities. In 1999, two chapters on regional measures and defence planning were introduced.

The VD is considered a success story, and its level of implementation remains exceptionally high. However, it has not been updated since the 1999 Istanbul Summit, despite geopolitical changes, the evolution of military doctrine, the modernization of military equipment, and the drastic downsizing of most participating States’ armed forces. The VD review process should adapt the document to modern realities, improving its transparency and enhancing its implementation.

The Nature of the Vienna Document

The VD has the following main characteristics:

- It is a politically binding document negotiated among all the OSCE participating States, which encompass a wide geographical area and a variety of security arrangements.
- It is an important source of information for all participating States through its information exchanges on defence planning, military budgets, military forces and structures, data and plans for the deployment of major weapon and equipment systems, and military activities.
- It is a facilitator of military contacts, military co-operation, and regional confidence- and security-building measures.
- It is a political tool for conflict prevention, risk reduction, and early warning.
- It is a living document with the potential for continuous adaptation.

The Need for Modernization and the Search for Political Impetus

The FSC remains engaged in CSBM negotiations under the original mandate of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (1984-1986). The OSCE's role has been confirmed by the concluding documents of several follow-up meetings and summits, including the Madrid, the Vienna, and the Helsinki Follow-up Meetings of the CSCE (Madrid Concluding Document, 1983; Vienna Concluding Document, 1989; Helsinki Summit Declaration, 1992), the Charter of Paris for a New Europe of 1990, the Programme for Immediate Action contained in the Helsinki Document 1992, and the Framework for Arms Control contained in the Lisbon Document 1996.

Little has been achieved in the years since the last VD update. Only five decisions concerning the VD were taken between 2000 and 2009, and they all related to the implementation of the VD and did not aim to modernize the document itself. These decisions concerned, respectively, the notification format (2000), the distribution of information exchange in electronic form (2001), the respect of national holidays when planning verification activities (2008) – a commitment that was already part of the VD – and, in two instances, meetings between heads of verification centres (2009).

In recent years, however, the participating States have presented more than twenty proposals aiming at modernizing the VD. The FSC has not been able to reach consensus on these proposals, although some decisions were almost carried. Instead of FSC decisions, six "FSC Chair's Statements" were published, all of them between 2000 and 2005. Such statements do not have the political status of VD decisions, but represent strong views shared by the vast majority of participating States. The six statements related to the modalities governing air base visits (2000), the use of digital cameras (2003), the

facilitation of point-of-entry procedures (2003), information exchange related to former army helicopter units reassigned to the air force (2004), the status of auxiliary personnel for interpreters during verification activities (2004), and the voluntary notification of one major military exercise or activity below the threshold per year (2005).

In 2007, a link was established between the deadlock of the CFE Treaty and the negotiations on the VD. Some participating States were no longer willing to negotiate proposals related to the VD due to the unilateral suspension of CFE Treaty implementation by the Russian Federation, while the Russian Federation relaunched a number of proposals linked to provisions of the adapted CFE Treaty, including a proposal on “Prior Notification of a Large-Scale Military Transit” and one on “Complementary Measures for Risk Reduction in the Deployment of Foreign Military Forces in the OSCE Area”.

With regard to the deadlock in VD negotiations during the 2000s, the Russian Federation suggested the creation of independent CSBMs to be applied in addition to the VD. Russia presented several technical proposals, on topics such as “Duration of Evaluation Visits”, “Taking National Holidays into Account when Planning Verification Activities”, “Single Deadline for Submission of Information on Defence Planning”, and “Procedure for Submitting Reports on the Results of Verification Activities”. However, these proposals were not intended for analysis as independent technical measures, but as part of a more ambitious project to conduct an in-depth analysis of the future role of arms control and CSBM.

Concerning the implementation of the Vienna Document, the activation of Chapter III “Risk Reduction – Mechanism for Consultation and Co-operation as regards Unusual Military Activities” reflects issues of serious concerns among participating States and is considered to be an early warning signal within the conflict cycle; Chapter III has very rarely been activated, only twice in the 90s. In the run-up to the August 2008 conflict in Georgia, it was activated three times, once by Georgia and twice by the Russian Federation. No solutions were found to the concerns raised by the parties, despite consultations chaired by the OSCE Chairman-in-Office and joint meetings of the Permanent Council and the Forum for Security Co-operation involving all participating States.

Although some participating States questioned the implementation of the VD in this situation, most stressed its usefulness for conflict prevention and early warning. It has been largely accepted that the VD cannot substitute for the lack of political will. And it is precisely this lack of will that prevented the 2008 Helsinki Ministerial Council from adopting a political declaration, despite tremendous efforts on the part of all participating States, leading the OSCE into a crisis.

The 2009 Greek Chairmanship launched the Corfu Process in order to restore dialogue and trust among participating States. The Corfu Process

demonstrated the lack of political consensus and the divergences between the participating States about their vision for the role of the OSCE. It also demonstrated the need to reinforce the OSCE and the Organization's ability to take action. Concerning the politico-military dimension, the 2009 OSCE Ministerial Council in Athens was able to adopt a decision that tasked the FSC, among other things, with "strengthen[ing] the OSCE's politico-military toolbox, with particular attention to strengthening current arms control and CSBM instruments, including strengthening the Vienna Document 1999".³ This very important decision allowed the FSC to initiate the modernization of the VD and closed the issue of independent CSBMs.

The Parliamentary Assembly (PA) also expressed itself several times in favour of the modernization of the VD. In 2010, in its Oslo Declaration, the OSCE PA welcomed the new activities of the FSC in strengthening the VD 99, and called on participating States "to hold vigorous negotiations in the interests of signing in the near future, if possible by the end of 2010, a new version of the Vienna Document".⁴ Although the FSC did not succeed in negotiating a new VD in 2010, the OSCE Heads of State or Government demonstrated political will at the 2010 OSCE Astana Summit by acknowledging the importance of conventional arms control and confidence- and security-building regimes. The Heads of State or Government tasked the FSC with revitalizing, updating, and modernizing the VD 99; the progress achieved is to be reviewed at the next OSCE Ministerial Council Meeting in December 2011.

During its presentation of the 2011 OSCE Chairmanship priorities, the Lithuanian Chairmanship indicated that a substantial update of the VD 99 and the adoption of an "OSCE Programme for Further Actions in the Field of Arms Control and CSBMs" are realistic goals for 2011. The Chairmanship outlined other priorities as well, such as strengthening the analytical and operational capacity of the OSCE executive structures, and reinforcing the Organization's capabilities in the conflict cycle, particularly in conflict prevention, early warning, and crisis management.

First Achievements of the FSC in the Run-up to the 2010 OSCE Summit

In May 2010, the FSC undertook to modernize the VD. The VD 99 was to remain in effect until its replacement by an updated version. After eleven years, the FSC was able to adopt a decision, which, although merely procedural, paved the way to the reopening of the VD and put an end to the arduous dis-

3 Decision No. 16/09, Issues Relevant to the Forum for Security Co-operation, MC.DEC/16/09 of 2 December 2009, in: Organization for Security and Co-operation in Europe, *Seventeenth Meeting of the Ministerial Council, 1 and 2 December 2009*, Athens, 2 December 2009, pp. 46-46, here: p. 47.

4 Resolution on Strengthening the 1999 Vienna Document Regime on Confidence- and Security-Building Measures (CSBMs) Negotiations, in: OSCE PA, *Oslo Declaration of the OSCE Parliamentary Assembly and Resolutions Adopted at the Nineteenth Annual Session*, Oslo, 6-10 July 2010, p. 23.

cussions regarding the modernization of the VD versus independent CSBMs. This decision – also known as the “VD Plus” decision (FSC.DEC/1/10) – was vital for starting the negotiation process on the VD.

Decision No. 1/10 tasked the FSC to proceed with the modernization of the VD 99. The participating States also agreed to hold a special FSC meeting every five years or more frequently, starting no later than 2011, in order to reissue the VD. These commitments have since been integrated into the Vienna Document by FSC.DEC/12/10. This constitutes an important achievement and clearly demonstrates that the VD is a “living document”.

Following FSC.DEC/1/10, a breakthrough towards an update of the VD was made in the run-up to the 2010 Astana OSCE Summit. More than 20 proposals for draft decisions were published by the participating States. Of these, the FSC was able to adopt five prior to the Summit. (Such decisions are also known as “Vienna Document Plus” decisions.) Although these decisions were technical in nature, they updated Chapter IV “Contacts”, Chapter IX “Compliance and Verification”, and Chapter XII “Final Provisions” to some extent. These decisions concern the eligibility of airbases for hosting visits, the timing of demonstrations of new types of major weapon and equipment systems, national holidays, and the update of the list of Partners for Co-operation. The FSC also agreed to update Chapter V “Prior Notification of Certain Military Activities” and Chapter IX “Compliance and Verification”.

This progress was confirmed at the 2010 Astana OSCE Summit, where the Heads of State or Government charged the participating States with updating the VD 99 and gave a new impetus to the politico-military dimension of the OSCE.

Weaknesses after the 2010 OSCE Summit

Despite the tremendous work done by the FSC prior to the Astana Summit and the ongoing negotiations on a large number of proposal for draft decisions, no decision related to the VD was taken by the FSC during the six months following the 2010 OSCE Summit, although several propositions published by the participating States gained a broad consensus and appeared to be reasonable, such as the use of digital cameras or the notification of one military activity per year lower than the thresholds. In order to regain the impetus created at the Summit, a Special FSC Meeting on VD 99, CSBMs, and conventional arms control took place on 16 February 2011. It produced several novel ideas, none of which has yet been put into practice.

Various interrelated factors could explain this apparent standstill in the VD negotiations. First, the political signal given in Astana has not been echoed enough within the participating States and the relevant ministries. The ministries of defence of several states were cautious, or even unwilling to negotiate, despite the political will to update the VD as demonstrated by the

Heads of State or Government in Astana and echoed by the positive message of the Permanent Representatives in Vienna.

Moreover, major stakeholders are making connections between the ongoing negotiations on the VD 2011 and the deadlock of the CFE regime. The future of the CFE Treaty is increasingly uncertain, as demonstrated by the difficulties in the ongoing informal talks on a framework agreement. Furthermore, the discussions in the Open Skies Treaty Consultative Commission have not fostered an atmosphere of co-operation, so that two of the three conventional arms control regimes are facing difficulties due to political divergences.

It is necessary to recall that, despite the fact that both the CFE Treaty and the VD are based on military information exchanges with inspection regimes for verification, the purpose of the VD is not the same as that of the CFE Treaty. While the CFE Treaty is a legally binding regime of thresholds and reductions negotiated between 30 States Parties, the VD is a politically binding instrument that is less intrusive and based on trust-building and CSBMs, valid for all the participating States.

In the past, the Russian Federation has constantly denounced the lack of willingness of other participating States to adapt the VD to modern realities and insisted that the politico-military dimension of the OSCE needs to be strengthened. Russia achieved a real breakthrough in the VD negotiations by imposing an apparently trivial decision in October 2010 on “Taking National Holidays into Account when Planning Verification Activities”, which broke the deadlock on FSC decisions regarding the VD. However, in the spring of 2011, Russia changed its approach and is now no longer in favour of an immediate substantial updating of the VD. Instead, it wishes to modernize the VD in two steps: The first concerns technical deliverables achievable in 2011, the second is linked to the future of the CFE regime and involves a more substantial modernization of the VD. Russia explained its new position in terms of three factors: (1) It wishes to avoid new commitments under the VD before or during the large-scale military reforms it is holding over the next few years. (2) There have been substantial cuts in Russia’s expertise in the field of arms control due to a decade during which the field has been discredited by the stubborn refusal of the partners to update the VD and to ratify the adapted CFE Treaty. And finally, (3) it points to the uncertainty regarding further prospects for conventional arms control in Europe.

The Essential Role of Informal Consultations

In order to overcome the standstill in the negotiations on the VD after the December 2010 OSCE Summit, it was agreed in February 2011 to conduct informal consultations. The FSC Chair underlined the necessity to continue substantial discussions, recalling that the Astana Summit had tasked it to update the Vienna Document and noting how little time was left until the next

OSCE Ministerial Council. It was necessary to facilitate the exchange of ideas to create a genuine dialogue not only between the members of delegations in Vienna, but also between Vienna and the capitals and even between the verification centres of different participating States.

The FSC Chair also gave a number of important tasks to the FSC Chair's Co-ordinator for the Vienna Document, who was to facilitate informal consultations, reduce tensions and resolve conflicting positions, publish studies on specific topics, make suggestions for draft decisions, advise the FSC Chair, and follow up the numerous proposals for draft decisions published by the participating States. The Co-ordinator also facilitated the process aiming at updating and modernizing the VD by publishing the "Draft Vienna Document", which reflects the stage reached in negotiations.

Successive FSC Chairmanships have taken a positive view of the numerous informal consultations that have taken place, which brought the delegations closer to a common understanding of the proposals under discussion. The participating States have demonstrated a growing interest in co-operating on the modernization of the VD, by publishing and co-sponsoring further food-for-thought papers and proposals for draft decisions. The FSC Chair commended those delegations that worked together and published common proposals in particular.

A High Level of Co-operation between Participating States

The work of the FSC has been exemplary since the participating States started to really co-operate on modernizing the VD. Some proposals were worked out and co-sponsored by delegations belonging to different security arrangements. This is a confidence- and security-building measure in itself. This pattern of co-operation is unique when compared to other dimensions of the OSCE, such as the human dimension, despite tremendous efforts made at the Human Dimension Committee.

Co-operation between Hungary, Belarus, Ukraine, and Poland set the stage for this collaborative effort. Although these participating States had divergent views on certain topics relating to Chapter IX, they succeeded within three months in achieving consensus and published two proposals for co-sponsored draft decisions. One of the proposals specifies the procedures for the start of the inspection, the other deals with the enhancement of the quality of briefing during inspection and evaluation visits. These proposals have gained large support in a short period with several participating States joining as co-sponsors. Even states with highly divergent positions within the Open Skies Joint Consultative Commission are co-sponsoring the same document.

Among other examples of co-operation, the delegation of the Russian Federation launched a proposal for a draft FSC VD decision on "Prior Notification of Certain Military Activities", which foresees the notification by the participating States of one major military exercise or military activity below

the thresholds in the absence of any notifiable military exercise or military activity in a calendar year. This proposal has the merit of binding all 56 participating States in their commitments under the VD. It also gained large support, the eleven cosponsors by July 2011 including the United Kingdom, Greece, Kazakhstan, Germany, and Sweden.

The proposal for “Lowering the Thresholds for Prior Notification of Certain Military Activities” is another example of co-operation; it has gained the largest co-sponsorship ever seen for a proposal for a draft decision within the FSC, with 35 participating States as co-sponsors. This topic was also widely discussed between experts in informal meetings.

Unfortunately, less positive examples also exist. No consensus has been found on the wording concerning the use of digital cameras, although most of the states have been using them for a number of years. Regrettably, at least one participating State was not in position to accept this more technical decision despite several months of consultations. It is conceivable that while this may have damaged the adoption of other FSC decisions, it set in motion the co-operation among delegations.

Lowering Thresholds as a Key Element for the Modernization of the VD

In Helsinki in 1975, the participating States agreed to notify each other about military exercises involving 25,000 or more troops. In Stockholm in 1986, the notification threshold was lowered to 13,000 and the observation limit was set at 17,000 troops. At that time, 25 million soldiers would have been engaged in Eastern and Western Europe in case of war. The third and last time that the thresholds were lowered was in 1992, where the notification threshold was set at 9,000 troops and the observation threshold at 13,000. Today, 19 years later, the quantity of troops and major weapon systems on European soil has dramatically decreased, but the thresholds remain the same as at the end of the Cold War.

Taking into account the thresholds defined in 1986 and 1992, the Vienna Document thus brought far more transparency at the time than it does currently. Experts agree that lowering thresholds once more is necessary to further increase transparency. One of the main achievements of the modernization of the Vienna Document will therefore be a substantial decrease of the thresholds in comparison to the ones last changed in 1992 and still contained in the Vienna Document 1999.

The following examples illustrate the significance of the level of transparency already reached in 1986 with the Stockholm Document: The Russian motor rifle division had 14,300 troops, which was more than the threshold of notification set at 13,000 troops, obliging the notification of any exercise. The Group of Soviet Force in Germany had 420,000 troops, 6,420 main battle tanks, 3,700 artillery pieces and 675 aircraft.

These days, armed forces are establishing task forces, such as battle groups at brigade level, for specific missions. Units of this kind, which are capable of acting independently for a specific time period and are equipped according to their task, can undertake significant military activities. This may include the ability to secure the military interest of one state or a group of states. While the thresholds defined in the Vienna Document 1999 reflect the division level of the early 1990s, the operational level today is the brigade and task-force level, which represent 3,000-5,000 troops. It has also been suggested that prior notification of military activities should also be triggered by qualitative parameters.

Recognizing the importance of the issue of thresholds, in 2005 the Chairperson of the FSC published a “Chair’s Statement” proposing a voluntary notification of one major military exercise or activity below the thresholds per year in the absence of any notifiable military exercise or activity in a calendar year.

In the run-up to the 2010 OSCE Summit, an interesting proposal for lowering the thresholds was published in the framework of the Forum for Security Co-operation (FSC.DEL/107/10). The substantive merit of this proposal is its suggestion that not only troop thresholds but also the thresholds of all categories of main weapon systems be lowered. The thresholds mentioned in this document are regarded as a realistic base for negotiation. This proposal is with the modernization of the VD because it brings more transparency without further costs. However, it seems that the thresholds set in this proposal represent almost no increase of notification for Western participating States and an important increase in the reporting burden of the Russian Federation. Further consultation might be needed to find a solution. In this, key principles should be respected, such as the principle of reciprocity and the principle of transparency.

The Preamble of the Modernized VD

During the negotiations on the updating of the VD, it has been recognized that the preamble should be considered as a package (paras 1 to 8 of VD 99). The aim was to issue a substantial preamble that is forward looking but does not disregard the achievements already made in the field of CSBMs. The new preamble of the modernized VD takes up the terms found in the VD 99, partially changing the order, avoiding duplications, and making it easier to read.

Since the FSC has a continuous mandate to update the Vienna Document, a new paragraph has also been introduced. This paragraph reflects the “VD Plus” decision (FSC.DEC/1/10), stipulating that the VD can be updated any time (“VD Plus decisions decided upon by the FSC shall enter into force on the date of adoption, unless it is otherwise specified in the text of the decision”). This decision was also incorporated within the modernized VD, under Chapter XII “Final Provisions” by FSC.DEC/12/10. It contains an important

forward looking element, aiming at revising the Vienna Document on a regular basis and reissuing it every five years or more frequently. This makes the VD a living document.

Analysis of the successive updates of the VD preamble between 1990 and 1999 demonstrates that it has been continuously adapted over the years. However, some paragraphs have undergone (almost) no changes since 1990; they are considered core paragraphs, containing fundamental provisions for the CSBMs:

- para. 3 of VD 99 referring to the multilateral process decided by the Conference on Confidence- and Security-Building Measures and Disarmament in Europe. This process, which remains valid, is designed to undertake, in stages, concrete actions designed to make progress in strengthening confidence and security and achieving disarmament.
- Paras 4 and 7 of VD 99, which refer to the mandates on CSBMs. The references to the Madrid, Vienna, and Helsinki Follow-up Meetings of the CSCE are important because the final documents of these meetings, as well as the Charter of Paris for a New Europe of 1990, the Programme for Immediate Action of the Helsinki Document 1992, and the 1996 Framework for Arms Control constitute the basis for the actual work of the FSC, which is continuing the CSBM negotiations under the original CSBM mandate.
- Para. 5 of VD 99, which refers to the declaration of the participating States on Refraining from the Threat or Use of Force of the Document of the Stockholm Conference, a commitment repeated in the Charter of Paris for a New Europe and the Charter for European Security, adopted at the Istanbul Summit in 1999.

What Does “Substantial Updating” Mean?

All participating States are in favour of a substantial modernization of the VD. However, some of the proposals merely focus on improving current implementation modalities, although this in itself is to be welcomed. Other delegations perceive such proposals as being linked to the implementation of the CFE Treaty. For example, the proposals on increasing the opportunities for inspections and evaluations are seen as remedies for the suspension of the CFE Treaty by the Russian Federation. Nevertheless, the notion of multinational inspection and evaluation teams contained in these proposals has been welcomed by a majority of states and could be one of the keys towards a potential consensus.

Some of the proposals made by the Russian Federation amount to an expansion of the Vienna Document, for example the inclusion of an additional chapter on an exchange of information on naval forces, the notification of the activities of multinational rapid reaction forces, and the notification of large-scale military transit operations. Russia drastically downsized its

demands concerning naval forces; the latest proposals withdraw the announcing mechanism and the possibility of conducting inspections, retaining only information exchange. Even if negotiations are not possible, the latest version merits at least the start of a dialogue.

This raises the notion of substantial updating. The improvement of the current implementation modalities is part of a necessary modernization. The dialogue towards updating the VD should include thoughts on the evolution of the capabilities of armed forces and of military doctrines. Mechanisms of risk reduction and co-operation such as those contained in Chapter III of the Vienna Document must be improved.

CSBMs could be reinforced and improved in a regional and sub-regional context. Regional CSBMs should be developed in order to provide an appropriate tool to contribute to regional conflict prevention; they might include mechanisms on the exchange of information, on observation, and even restriction of military activities.

The CSBMs contained in the VD have to cover the whole of Europe as well as the adjoining sea area and air space. The full implementation of this principle might allow to explore new forms of CSBMs.

Realistic Goals for 2011

The updating of the VD is an ongoing process, with the following being realistic goals for 2011:

- an “administrative update”, encompassing, for example, the adaptation of the list of participating States and Partners for Co-operation;
- an update of the preamble to take into account the progress made since 1999, including the results of the Astana Summit;
- inclusion of regular assessments of the VD and the possibility of reissuing the VD every five years or more frequently, reflecting the spirit of the “VD Plus” decision;
- modernizing information exchange by taking into account the restructuring of the armed forces (downsizing, brigadization, and so on);
- lowering the threshold for prior notification of certain military activities to reflect the decrease of troops and equipment, thereby bringing more transparency;
- increasing the opportunities for contact organizations, inspections, and evaluations;
- the facilitation of certain procedures (enhancing quality of briefing and reporting, facilitating point-of-entry procedures, start of inspection and evaluation, organization of contacts).

The modernization of the VD does not take place in a vacuum. All the participating States recognized the need to modernize and strengthen all three OSCE politico-military instruments. The CFE Treaty, the Open Skies Treaty, and the Vienna Document should reflect the politico-military realities of today and tomorrow. Updating the VD is an ongoing process that will not stop at the end of 2011. All the discussions, consultations, and proposals published by delegations in 2010 and 2011 will be a useful part of this process.

Several participating States recommended starting a strategic conversation on the conventional arms control challenges of the 21st century. VD reform may require a more imaginative and forward-looking approach. The updates have to be substantial, based on a culture of co-operation, and taking into account the interests of all participating States. In order to get a more global and integrated picture, the FSC should make full use of its capacities and conduct, for example:

- an assessment of the development and modernization of the armed forces, including in the field of technology;
- an assessment of the evolution of military doctrine and its consequences for CSBMs and arms control;
- threat assessments, including a security conversation about what military activities of real concern, should promote common understanding;
- an analysis of the causes of crises and conflicts within the OSCE region;
- a projection of the security and politico-military situation over the next 20 years.

The May 2011 High-Level Seminar on Military Doctrine and the February 2011 Special FSC Meeting on VD 99, CSBMs and Conventional Arms Control have been concrete and useful examples of just this kind of approach. It would also be welcome if Working Group A meetings of the FSC were more active in the exchange of views.⁵

A particular interest remains in improving the use of VD in crisis situations and its provisions relating to early warning, conflict prevention, and crisis management.

Future CSBM should fulfil the following criteria:

- taking into account the security-related interests and concerns of each participating State;
- representing concrete progress and real added value for security and stability; in other words, they should deepen military transparency and predictability within the entire zone of application;

⁵ The FSC's Working Group A meets weekly. It is concerned with the implementation of all existing obligations and the negotiation of new proposals.

- being compatible, complementary, and congruent with existing CSBMs;
- being verifiable and compulsory.

The Uncertain Future of the CFE Treaty

The Treaty on Conventional Armed Forces in Europe (CFE Treaty) was signed in Paris on 19 November 1990 and came into force on 9 November 1992. The Treaty aimed at strengthening European security, eliminating military disparities prejudicial to stability and security in Europe, and creating a balance between the conventional forces of the Warsaw Pact and the North Atlantic Treaty Organisation (NATO). The Treaty reduced capabilities for the launch of surprise attacks and large-scale offensives in Europe by limiting armaments and defining thresholds to prevent the deployment of conventional weapons.

The 1999 Istanbul Summit adopted the adapted CFE Treaty, which took into consideration the new geopolitical situation in Europe by abolishing the Cold-War bipolar approach. However, only a few States Parties ratified the adapted CFE Treaty. The Russian Federation criticized the successive enlargements of NATO and the planned deployment of US conventional forces in Bulgaria and Romania. Russia urged the NATO members to ratify the adapted Treaty and to implement it in good faith. Western States Parties claimed that Russia had failed to implement the so-called Istanbul commitments, which foresee the withdrawal of Russian troops and military equipment from Georgia and Moldova. Russia claims that the NATO states have linked their ratification of the adapted Treaty to the Istanbul Agreements, which are bilateral agreements and unconnected to CFE. Furthermore, Russia accuses Hungary, Poland, Slovakia, and the Czech Republic of not complying with the commitments they accepted in Istanbul to adjust their territorial ceilings. Russia has furthermore asked Bulgaria, Hungary, Poland, Romania, Slovakia, and the Czech Republic to formally acknowledge their transfer from one group of States Parties to the Treaty to another, i.e. their accession to NATO.

The resulting situation made the Russian Federation suspend the implementation of the CFE Treaty in December 2007 and ask for negotiations to restore its viability and to ensure its continual renewal. Russia also requested the interim application of the adapted Treaty no later than 1 July 2008, the working out of terms of accession for new members of the CFE Treaty (including Estonia, Latvia, and Lithuania), the abolition of flank restrictions on Russian territory, and the definition of the term “substantial combat forces”, and called for co-operation and restraint prior to coming to an agreement. NATO presented a “parallel actions package”, which did not succeed in allowing the Parties to overcome their divergences. The conflict of August 2008, in which conventional weapon systems described by the Treaty

were extensively used, and the following unilateral recognition of South Ossetia and Abkhazia by one State Party, complicated the situation around the CFE Treaty.

The CFE Treaty Deadlock and the Conventional Forces Impasse in Europe Worsen

The impasse in the CFE Treaty negotiations is likely to last for a long time and even to worsen in the coming months. The frustration that has built up among the States Parties is an obstacle in the search for solutions and for the expression of political will. The favourable conditions that were created before and during the OSCE Summit in December 2010 have not been sufficiently exploited. The States Parties and the depository state currently see no solution to the CFE Treaty crisis.

Consultations took place in Vienna in 2010 and early 2011 with the aim of reaching a framework agreement that would enable the resumption of negotiations. These consultations ended in failure; at the last meeting on 14 May 2011, the participants suspended the discussions, and no date has been fixed for a new round of consultations. The participants agreed that to advance this issue, political impetus from the highest level would be necessary. It was hoped that a Russo-American agreement could be reached in the margins of the G8 summit in Deauville. This was not the case, and the chief Russian and American negotiators have now been appointed to other positions. The participants in these consultations acknowledged the need for a break and recognized that there is no immediate likelihood of a resumption of consultations. Since then, the Russian Federation and the United States have pursued bilateral consultations, though it seems that no concrete results have yet been obtained.

The next major meeting will be the five-yearly Review Conference of the CFE Treaty, which will be held at the end of September 2011 and chaired by Moldova. The States Parties to the Treaty seem to have agreed to hold a technical conference, although the adoption of the agenda gave some concern, indicating that the crisis is likely to continue. It is highly improbable that the Russian Federation will resume its information exchanges under the terms of the CFE Treaty. The immediate future after the review conference will probably see a suspension of information exchanges with Russia by the NATO states on 15 December 2011, which is the date of the annual exchange of information between States Parties according to the provisions of the CFE Treaty. Hypothetically, the year 2012 could see new initiatives to unblock the situation. However, a breakthrough is very unlikely, since no solution has been found with regard to the 1990 CFE Treaty, and no new States Parties have ratified the adapted CFE Treaty of 1999. Consequently, the Vienna Document could become (temporarily at least) the reference document for conventional forces in Europe if the impasse continues.

The weekly meetings of the Joint Consultative Group (JCG), whose task is to monitor the implementation of the CFE Treaty, have also been called into question for economic reasons and because lack of substance. Following the suspension by Russia of the CFE Treaty, no substantive discussions have taken place in the JCG.

Discussions on an Agreement Entitled “Framework for Negotiations to Strengthen and Modernize the Conventional Arms Control Regime in Europe”

A series of consultations were held in Vienna from July 2010 to May 2011 with a view to drafting a framework agreement that would enable the resumption of negotiations to modernize the arms control regime in Europe (“Framework for Negotiations to Strengthen and Modernize the Conventional Arms Control Regime in Europe”). These consultations, launched following an initiative by the United States, took place in the framework of the Group of 36, which consists of all the States Parties to the CFE Treaty plus six new members of the Atlantic Alliance. The Group of 36 met ten times.

These consultations did not succeed for the following reasons:

- first, the participants disagreed on the nature of the instrument to be negotiated and on whether it should be politically or legally binding;
- second, there were differences of opinion about the application of the principle of host nation consent, which highlighted the issues of respect for territorial integrity and of the use of force in Georgia, Moldova, and Nagorno-Karabakh;
- third, the participants had diverging views on the role and status of the current CFE Treaty in the framework of new negotiations;
- fourth, there were differences of opinion on the implementation of an interim information exchange and inspection regime during the period of negotiations;
- finally, to a lesser extent, there was no agreement on the preservation of the flanks regime.

The Key Problems Raised by the Discussions on the Framework Agreement

The Nature of the Instrument to Be Negotiated and the Foundations of the Modernization of the Regime on Conventional Forces in Europe

The role of the fundamental principles and of the *acquis* has been called into question. The issue of whether this should be legally or politically binding remains open. The Russian Federation could limit itself to modernizing the conventional forces in Europe regime without referring to the principles that are currently in force or to the CFE Treaty. It should be pointed out that the majority of states, not only on the NATO side, would prefer to strengthen the

current regime derived from the CFE Treaty and based on the adapted CFE Treaty. The states represented in the Group of 36 have not managed to agree on the format of the future treaty/instrument on conventional forces. Three main options are possible:

- *Negotiations based on the CFE Treaty currently in force.* This option, which enjoys the support of important States Parties, would mean building on the *acquis*; would avoid a gap in implementation (moratorium); and would use existing structures (maintaining, for example, the current depository state, negotiating within the JCG, and the principles of financial distribution). Interested third states could potentially participate in negotiations on condition that they partially implement the obligations of the CFE Treaty. Once negotiated, accession to the amended Treaty would be open to third states on condition that they are accepted by the current States Parties.
- *Negotiations on a partially redesigned Treaty referring to the adapted CFE Treaty adopted at the Istanbul Summit in 1999 and the CFE Treaty currently into force.* This option seems to enjoy the favour of some States Parties due to its flexibility, the fact that it allows reference to the *acquis* and leaves the door open to a politically or legally binding arrangement.
- *Designing a completely new arrangement on conventional forces in Europe.* The aim of this proposal is to relaunch the negotiations without preconditions and without anticipating and prejudging future results. This option, which was proposed by the Russian Federation, involves a rethink of the conceptual foundations and the format governing conventional arms control. The Russian Federation invites all states willing to “seriously negotiate and avoid any link with unresolved conflicts” to take part in new negotiations, and calls on them to avoid imposing any conditions whatsoever. In concrete terms, this option would exclude the participation of Georgia, Moldova, and Azerbaijan. The goal is to arrive at a regime that is less restrictive and free of some current limitations. The Russian Federation takes an open-minded approach to the question of the format of negotiations and whether they take place within the OSCE, the NATO-Russia Council, or another body. At the moment, this option is rejected by all the other states.

Unresolved and Protracted Conflicts

The diverging positions of the States Parties on unresolved and protracted conflicts were a major factor that led to the failure of the discussions on the framework agreement. Certain States Parties linked the future of the conventional armed forces regime in Europe with the resolution of unresolved and protracted conflicts. In this regard, the presence of Russian troops in South Ossetia and Abkhazia is indicative of the fundamental differences between the Russian Federation and the West regarding the respect for internationally

recognized borders. The respect of the principle of “host nation consent” seems to be the main obstacle. No consensus has been reached on how to deal with the issue of the consent of the host nation for the stationing of foreign troops on its territory.

Armenia, Azerbaijan, Georgia, and Moldova have regularly expressed their concerns on the basis that the stationing of military forces on foreign territory without the consent of the host nation is inconsistent with the principle of the non-use of force. Most of the amendments proposed by these states were unacceptable to the Russian Federation. In order to reach a consensus, the Russian Federation has repeatedly stressed the need to avoid any link between the protracted conflicts and arms control within the framework agreement. Not only the states directly concerned by unresolved and protracted conflicts, but also others argued that it is precisely in areas where unresolved conflicts take place that arms control is especially important and necessary.

Interim Implementation Measures: Information Exchanges and Inspection

During the drafting of the framework agreement, the United States, supported by its NATO allies, tried to impose two conditions for participation in future negotiations on the modernization of the conventional armed forces regime. These were referred to as “transparency principles” or “provisional confidence-building measures” for the duration of the negotiations. The first of these was the obligation to exchange military information concerning structures, equipment, and locations of active and inactive armed forces and security forces, up to battalion and independent squadron levels. The second was the obligation to accept inspection quotas to verify this information. These voluntary measures would have the purpose of (1) avoiding a moratorium on the CFE Treaty, (2) demonstrating the will of the participants to negotiate, and (3) refraining from the threat or use of force.

The Russian Federation made it known that it was opposed to all interim measures that implemented in disguised form the provisions of the “suspended” CFE Treaty. In Russia’s view, the exchange of information should be confined to data covered by the Vienna Document and its global exchange of military information. The United States, several allied countries, Moldova, Georgia, and Azerbaijan consider that this provision is insufficient, given that the VD data is incomplete, failing, as it does, to cover either autonomous units or stores of military equipment.

A Brief Analysis of the Consultations on a Framework Agreement

The United States entered into the consultations on a framework agreement after long negotiations with its partners in NATO. The United States put considerable pressure on Russia to consent to the framework agreement in the spring of 2011 and to agree to a concrete date in 2011 to start negotiations on

the future regime on conventional armed forces in Europe, thereby avoiding a moratorium in the application of the CFE Treaty. On several occasions, the US has proposed a tight calendar that takes into account the meetings of the NATO-Russia Council, the NATO summit, the NATO Ministerial Meeting, the G8, and the CFE Treaty Review Conference – all without success.

Although Russia displayed a co-operative attitude when working on the American framework agreement, which was several pages long, it argued that the document should be simpler, one page at most, and should simply set out the principles to be applied at the next negotiations on arms controls.

The United States has insisted on the principles of the non-use of force, respect for internationally recognized borders and the consent of the host state, as well as on transparency in the exchange of information. A critical analysis of the American proposal for a framework agreement on negotiations to strengthen and modernize the conventional arms control regime in Europe could demonstrate that the purpose of this initiative is (1) the withdrawal of the Russian military presence from South Ossetia and Abkhazia, adapting the 1999 Istanbul commitments to the current situation, and (2) to force Russia to publish information concerning military structures, equipment, major arms systems, and troop locations and movements that is no longer available following its suspension of the CFE Treaty.

Russia has clearly stated its position, confirming (1) that the Russian decision regarding “two new internationally recognized states” (South Ossetia and Abkhazia) is final and non-negotiable; this fundamental divergence is the heart of the failure of these consultations; and (2) that the information exchanged in the framework of the Vienna Document is sufficient. It should be noted that both Russia and the United States see a link between the modernization of the Vienna Document and the future of the CFE Treaty, as demonstrated in the consultations at the OSCE Forum for Security Co-operation.

By insisting that the CFE Treaty should no longer be mentioned during consultations and during negotiations on the agenda of the Review Conference of the CFE Treaty, the Russian Federation has signalled its intention to opt out of the CFE Treaty and to demand a less binding arms control regime, putting the “cornerstone treaty” for European security in question. An agreement between NATO and the Russian Federation would be sufficient to modernize the control of conventional weapons in Europe by excluding “trouble makers” such as Georgia, Azerbaijan, Armenia, and Moldova.

Given the failure of the consultations on the framework agreement, the results of the CFE Treaty Review Conference scheduled for September 2011 will be carefully examined by the NATO allies. If a framework agreement does not appear to be realistic in the short term and if Russia persists in the unilateral suspension of the CFE Treaty, the allies will have to make a decision on the suspension of their information exchanges with Russia in accordance with the principle of reciprocity.

Conclusion

The impasse around the conventional armed forces in Europe regime is hardening, and the CFE Treaty stalemate is likely to persist in the foreseeable future. It may even worsen in the coming months. Although the Vienna Document cannot replace the CFE Treaty, it is a complementary tool and indispensable for stability and security in the OSCE area, with an important chapter on risk reduction, which is vital for crisis prevention. The modernization of the VD is essential to preserve a certain level of predictability in military activities in Europe by maintaining a significant level of transparency via various exchanges of information and a meaningful inspection system. This creates confidence and security among participating States.

All the participating States agree that security within the OSCE area requires an effective, inclusive, and transparent conventional arms control and CSBM regime; they are important for military as well as political reasons. Europe needs solid arms control and CSBM regimes, with full implementation of up-to-date commitments. Arms control and CSBMs are particularly relevant in the context of the OSCE's efforts to build a genuine security community. Enhanced military transparency proved to be an effective solution with substantial benefits in the development of a higher level of confidence and security within the OSCE area. When US Defense Secretary Robert M. Gates met with Russian Minister of Defence Anatoly Serdyukov and later with Russian President Dmitry Medvedev in March 2011, he stated that an "issue of great importance to both of our leaders is establishing a framework for European security that can strengthen stability, predictability and security for all nations on the continent".⁶

The CSBMs are important tools for transparency that increase predictability and generate confidence between the 56 participating States. The added value of the VD lies not only in the various information exchanges it puts in place and the opportunity it provides to verify their compliance, but also the promotion of regional measures. Furthermore, thanks to its chapter on risk reduction, the VD is a political tool for early warning and crisis prevention in the hands of the participating States, the Permanent Council, the Conflict Prevention Centre, and the Secretary General. The VD might also be used for dispelling concerns in case of unusual military activities and incidents of military nature, making it a relevant instrument for crisis management.

Successive FSC Chairmanships have called for a genuine dialogue and readiness to develop a common understanding in order to recapture the spirit of CSBMs. The OSCE participating States have been invited in several Summit and Ministerial decisions to explore a wide range of updating possi-

6 U.S. Department of Defense, *Joint Press Statement by Secretary Gates and Minister Serdyukov at the Ministry of Defense Guest House, Moscow, 22 March 2011*, at: <http://www.defense.gov/transcripts/transcript.aspx?transcriptid=4792>.

bilities. This dialogue should aim to identify topics and proposals to improve reciprocal military transparency in Europe, Central Asia, and the Caucasus. The aim of the CSBMs and the VD is not to limit the military operational flexibility of the States, but to bring more confidence and security amongst them.

An open, frank, and generous dialogue is the basis for a good climate for negotiations, of which the outcome has to be a “win-win” situation for all 56 participating States. In accordance with the 2010 OSCE Summit Declaration and FSC Decision No. 1/10, the VD will be reissued in 2011. The updating however is an ongoing process that will not stop at the end of the year. In a time of uncertainty for other arms control regimes, it is important to leave the door open for further negotiations. The VD is a living document full of potential under the motto “flexibility and adaptability”.

Focus on ODIHR: 20 Years of Democracy and Human
Rights Support

ODIHR at 20: Promoting Human Rights and Democracy in a Complex International Environment

On 17 May 2011, retired Italian diplomat Luchino Cortese spoke to a Warsaw gathering to mark the 20th anniversary of the institution that began its activities with a handful of staff under his leadership in 1991 as the Office for Free Elections of the then 35-member Conference on Security and Co-operation in Europe. Ambassador Cortese expressed a combination of pride and awe as he quipped that he felt like the great-great-grandfather of what had become the Office for Democratic Institutions and Human Rights (ODIHR), the main institution devoted to the human dimension of the Organization for Security and Co-operation in Europe (OSCE). Ambassador Cortese and the other three former ODIHR Directors had gathered at the invitation of current Director Janez Lenarčič to mark not only the passing of ODIHR's first two decades, but also its move to permanent consolidated premises in an impressive replica of a 17th-century palace that had just been restored and made available for use by ODIHR through the generosity of its Polish Government hosts.

ODIHR moved to its new home in its 20th anniversary year with a broad mandate to monitor developments and assist the OSCE's 56 participating States in implementing commitments across the human dimension of security, including not only free elections and democracy but also respect for human rights, the promotion of tolerance and non-discrimination, and improvements in the situation of disadvantaged Roma populations. ODIHR carries out these tasks from its central Warsaw headquarters with a highly professional staff of over 150 experts and support personnel, with roughly 16 million euros in annual OSCE unified budget resources and additional funding provided on a voluntary basis for specific activities that fall within its mandate.

ODIHR offers targeted assistance across the OSCE region and efficiently organizes a host of meetings that provide for "peer review" of how human dimension commitments are being implemented. Open to civil society and international organizations as well as to OSCE participating and partner States, these include Europe's largest annual human rights conference and discussions of more specialized topics. By 2011, ODIHR had conducted election-related activities in 52 OSCE participating States as well as in Afghanistan, which is an OSCE Partner for Co-operation, and stood ready to consider requests to share OSCE experiences or otherwise provide appropri-

Note: The views expressed in this article are not necessarily those of the OSCE, ODIHR, or any other entity.

ate support when requested by such OSCE Mediterranean Partners for Co-operation as Tunisia, Egypt, and Morocco.

ODIHR is widely respected as a major “player” in the democracy promotion business, regularly engaging in dialogue and joint projects together with the United Nations (UN), the Council of Europe (CoE), and the European Union (EU), but also sharing experience more widely with such bodies as the Organization of American States (OAS), the Organisation of Islamic Cooperation (OIC), the African Union (AU), and the Commonwealth of Independent States (CIS). Despite its credibility, its range of activities, and its track record, however, ODIHR commands only a very modest share of the resources devoted to democracy and human rights promotion within the OSCE region (not to mention Afghanistan or the world beyond). The approximate budget and staffing figures cited above are but a tiny fraction of those available to such institutions as the United Nations Development Programme (UNDP), the US Agency for International Development (USAID), and the European Commission for related purposes.

A major challenge for ODIHR’s leadership is therefore to ensure that the expertise accumulated and the limited resources available to ODIHR are applied in the most effective way to contribute to the ultimate objectives of strengthening aspects of democratic governance and promoting greater respect for human rights. The nature, scale, and scope of ODIHR’s activities are determined in the first instance by the mandate and tasks given to the Office by the participating States; priorities articulated by each OSCE Chairmanship; and the willingness of OSCE States both to provide resources and to co-operate with ODIHR in practice. The portfolio of activities carried out by ODIHR at any given moment is also affected by the complex environment in which it operates. The remainder of this article will:

- identify three different sets of external factors that have affected the evolution of ODIHR’s structure and its efforts to implement its mandate since 1991;
- provide examples of the way ODIHR has evolved to meet new challenges and explore new opportunities created by changes in the external environments; and
- conclude with some reflections on the way in which ODIHR and its activities are likely to evolve further as the outside world continues to change in the coming decades.

A key conclusion is that, despite a core mandate which remains essentially unchanged since the early 1990s, ODIHR has continuously adjusted its approach in response to changes in the world beyond Warsaw and will need to continue to do so for the foreseeable future.

Many important factors affect ODIHR's capacity to implement its mandate and define the areas where the Office can have the greatest impact. Among those largely *internal* to ODIHR, which are *not* addressed directly in this article, are such factors as the diplomatic and management skills of its leadership, the quality and creativity of its staff, the efficiency of its resource utilization, and the ability to identify lessons learned from previous experience and to maintain continuity in areas of excellence despite inevitable personnel turnover. The focus here will be on the following three key categories of *outside* factors that have affected ODIHR's work and will continue to do so.

First, ODIHR constantly evolves in light of *changes within the OSCE* itself. When comparing 1991 and 2011, we see that ODIHR's parent body has changed not only in terms of its name (from CSCE to OSCE) and its membership (from 35 to 56), but also with regard to the nature of political dialogue that takes place at senior level, the types of task that are allocated to ODIHR by decision-making bodies, the number and size and role of its field operations, the role and priorities of the annual Chairmanships, and the nature of other executive structures within the Organization.

Second, ODIHR and its role are affected by *institutional developments outside the OSCE* at supra-national level. The past two decades have of course been marked by a dramatic evolution of the broader European, Eurasian, and Euro-Atlantic security and human rights architecture. The enlargement of the EU and the CoE to include ever more OSCE participating States and an ever greater focus on internal human rights and democracy issues are among the most visible developments that have direct implications for an institution such as ODIHR, which has a clear mandate that includes promoting greater democracy and respect for human rights in the very same states. The increasing scope and sophistication of the UN human rights treaty system, the reform of the UN human rights machinery with its re-styled Universal Periodic Review mechanism, and the role played by such bodies as the CIS and its Inter-Parliamentary Assembly are among the other processes with relevance to ODIHR's work.

Finally, *political and social developments, policies and practices within OSCE participating States and Partners for Co-operation, as well as the relationships between them*, are of continuing relevance to ODIHR, as its leadership determines how best to deploy the Office's quite limited resources. Dramatic developments such as the 11 September 2001 terrorist attacks on the United States, outbreaks of armed conflict such as the August 2008 war in Georgia, official and unofficial attitudes towards the OSCE in general and ODIHR in particular, and the actual implementation or non-implementation of OSCE human rights and democracy commitments, can all affect both the

actual need for ODIHR engagement and the willingness of states to solicit and accept ODIHR advice and support or their interest in doing so.

Changes across the OSCE region on a societal level, such as the dramatic expansion of Internet and social media use since 1991 and the changing technical needs of various key beneficiaries, are among related factors that affect ODIHR's capacity to implement its mandate. As the fulfilment of ODIHR's mandate requires engagement with a wide range of actors, ODIHR must constantly evaluate, and obtain feedback on, the most effective ways to work with judicial and parliamentary bodies, civil society organizations, and individual experts as well as with OSCE delegations in Vienna and central government ministries.

How ODIHR Interacts with the World(s) Outside

All of the above-mentioned factors have been constant features of the operating environment which ODIHR leaderships would have ignored at their peril over the past 20 years. Likewise, the dynamic developments in all three worlds – the OSCE itself, non-OSCE institutional architecture, and the relevant states – can also be expected to affect ODIHR in the future. ODIHR is of course not passive in its relations with the outside world(s), and its management engages in regular dialogue to explain and emphasize what ODIHR can accomplish within its mandate (not least to avoid unnecessary duplication of efforts). ODIHR officials also play an important role in dialogue with states, whether through formal OSCE political processes or directly as a custodian of the OSCE commitments in the human dimension. ODIHR officials speak frankly to representatives of participating States and of other institutional actors not only about the importance of implementing human dimension commitments, but also to discourage them from weakening the systems already in place for monitoring implementation and to encourage efforts to improve implementation where possible.

At the same time, while ODIHR's leadership can provide advice on OSCE institutional matters within its mandate, ODIHR is an executive structure within the OSCE and not a decision-making body. Similarly, while ODIHR officials can advise partners in the broader international community and in participating or partner States on matters where it has expertise, it ultimately has no mandate and certainly no ability to exert decisive influence on matters like changes in the institutional architecture of the UN, the EU, or the CIS – let alone the internal human rights or democracy policies of particular states. ODIHR's approach is therefore often at least partly reactive out of necessity: as developments occur in the outside world(s), the ODIHR leadership assesses and responds to the challenges and opportunities that such developments present.

Developments within the OSCE itself have a major impact on ODIHR's role in several ways. Most obviously, since ODIHR is an executive structure, decisions by OSCE decision-making bodies such as the OSCE Permanent Council (PC), the OSCE Ministerial Council (MC), and Summits of OSCE Heads of State of Government can alter the mandate and assign new tasks to ODIHR that prefigure/determine the direction of its work. In practice, ODIHR's broad mandate to promote greater respect for commitments in the human dimension has remained largely intact since the early 1990s, but new tasks in areas such as tolerance and non-discrimination, trafficking, terrorism, and Roma inclusion have been added for reasons that are discussed to some extent below. More frequently, ODIHR is affected by decisions that relate to its budget and staffing levels – two issues that are addressed annually by the PC – as well as ODIHR's specific responsibilities to organize human dimension meetings and ODIHR's relationship with other OSCE executive structures.

For example, while the Helsinki 1992 Summit gave ODIHR a mandate to organize human dimension meetings, and the PC provided a specific template for the main annual meetings as early as 2002, ODIHR is dependent on annual PC decisions to determine the specific agenda, timing, and topics of the main two-week Human Dimension Implementation Meeting (HDIM) and the three-day Human Dimension Seminar (HDS) in Warsaw. The Chairmanship bears responsibility for determining (in close consultation with other participating States) the topics and timing of three Supplementary Human Dimension Meetings (SHDMs) in Vienna, and frequently also requests ODIHR's assistance in organizing or supporting other events that track with the priorities of the particular OSCE Chairmanship. ODIHR needs to maintain flexibility in responding to these priorities of the PC, MC, and Chairmanship. In 2010 and 2011, for example, ODIHR worked closely with the Chairmanships of Kazakhstan and Lithuania to focus attention on tolerance and non-discrimination issues (and with Lithuania, in 2011, on national human rights institutions). ODIHR's job in all these cases has been to organize such meetings efficiently but also to advise partners within the OSCE system about the extent to which proposed topics are those on which OSCE can truly add value by stimulating constructive discussions on issues of significant contemporary relevance as opposed to those where well-worn rhetoric is likely to be regurgitated by smaller and smaller pools of participants.

While ODIHR's main mandate – in contrast to the OSCE field operations discussed below – does not require annual renewal, decision-making bodies adopt action plans and other major texts that clearly enlarge, alter, or clarify ODIHR's mandate. The OSCE Ministerial Council was particularly active in this regard in 2003 and 2004, when it adopted broad action plans addressing the promotion of gender equality, combating trafficking in human

beings, and improving the situation of Roma and Sinti in the OSCE area. All of these plans built upon existing work done by ODIHR but also specified the ways in which ODIHR would be expected to address these priority topics in subsequent years. In the OSCE Gender Action Plan, for example, ODIHR is specifically tasked to focus on the promotion of women's participation in public and political life, the strengthening of national gender equality mechanisms, and the role of women in the security sector. All of these are now prominent activities in ODIHR's portfolio of work, including a major project launched in 2011 to increase women's participation in political parties as important "gatekeepers" for broader involvement in political life. ODIHR's work on trafficking focuses on the rights of victims in line with the relevant OSCE Action Plan. Its Roma integration efforts build on both the 2003 Action Plan and subsequent decisions focusing special attention on early education for Roma children as well as combating negative stereotypes in the media and public discourse.

Regarding its oldest and still most prominent programmatic activity, election observation, ODIHR has received guidance on a number of occasions from OSCE decision-making bodies. For example, a 2006 MC decision called for an expansion of the geographic focus of ODIHR election observation work and for greater efforts to diversify the pool of individuals who serve as election observers. ODIHR responded by introducing a more transparent and inclusive recruitment system for the "core teams" for observation activities, introduced training for observers from under-represented countries, and worked with donors to use extra-budgetary funds contributed through a new Diversification Fund to defray the costs of observers from those countries whose governments are least able to cover them.

In the area of tolerance and non-discrimination issues, where ODIHR was much less active during its first decade or so, ODIHR began to receive a number of very specific tasks in MC and PC decisions beginning in 2003. These decisions led directly to the creation of a new and robust Tolerance and Non-Discrimination Department in ODIHR, which makes extensive efforts to collect data about hate crimes, to raise awareness about various forms of intolerance and discrimination, and to share best practices in such areas as law enforcement and education to combat hate crimes.

Another area where ODIHR is affected by decisions taken elsewhere in the OSCE is the fate of field operations – the network of missions, offices, centres, presences, and project co-ordinators that began to develop during the wars in the Western Balkans in the early 1990s and continue to exist in more than 15 locations in Eastern and South-eastern Europe as well as the Caucasus and Central Asia. ODIHR has to be consulted during the establishment or management of such field operations¹ and over the past two decades has

¹ CF. Budapest Document 1994, Budapest, 6 December 1994, Chapter VIII, paragraph 11, 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. 176.

developed important co-operative links with virtually all of them. The challenge for ODIHR in working with field operations has been to develop collaboration and synergies while avoiding overlap where mandates coincide and maintaining clarity about distinctions among mandates.

As a general rule, ODIHR responds to requests from field operations as a priority, including for expert visits, the training of field operation personnel, and the provision of direct support to host countries. ODIHR and field operations often collaborate when supporting reform of host-country electoral systems, for example, while stressing at the same time that it is ODIHR and not the field operation that has a mandate from participating States to observe or assess the elections themselves. ODIHR also needs to be sensitive to the sharply differing capacities and mandates of field operations, responding in some cases to the fact that field operations are too small to address certain issues in which ODIHR has expertise (such as various aspects of promoting the rule of law or democratic governance), while in other cases any ODIHR involvement in the same sectors would be largely superfluous.

In areas where there are relatively large OSCE field operations, such as South-eastern Europe, ODIHR has responded to the need for a regional approach to certain issues (such as war crimes justice) that are difficult for individual field operations to address because of their single-country mandates. ODIHR has also responded readily to the interest of field operations in training for their staff, both by organizing a thrice-yearly orientation course for new staff on human dimension issues and by providing targeted training in specialized areas (such as combating hate crimes).

ODIHR faces special challenges in working where field operations do not exist, either because they have never been mandated (as in Western and Central Europe and North America) or where they have been closed.² ODIHR has found practical ways to overcome the (mainly logistical) challenges of working where OSCE has never had field operations, in large part due to its extensive election observation experience in such countries. Examples going beyond election work include the activities that ODIHR implements throughout the OSCE region – in the “West” as well as the “East” – to collect data on hate crimes and share tools to help combat various forms of discrimination, including anti-Semitism and intolerance against Muslims.

The closure of field operations or changes in their mandates can raise more serious issues of a political nature because the lack of consensus on extension of a mandate has historically reflected concern about OSCE activities on the part of either the host country or some other participating State(s). At the same time, the closure of such field operations may also highlight and even heighten the need for specific inputs that ODIHR can provide. Two examples would be the ability of ODIHR to engage in the monitoring of trials that followed the 19 December 2010 elections in Belarus (agreed with the

2 Since 1999, a lack of consensus on mandate renewals has led to the closure of OSCE field operations in Latvia, Estonia, the Russian Federation (Chechnya), Georgia, and Belarus.

host authorities even as the resident field operation was forced to depart) and a range of human rights monitoring, parliamentary strengthening and women's political participation work that ODIHR has been able to undertake in Georgia after the mandate of the OSCE Mission to Georgia expired at the end of 2008.

While ODIHR was quite modest in scale when it was headed by Ambassador Cortese in the early 1990s, it was a pioneering body within the then CSCE. It thus had a near-monopoly of the fledgling Organization's action on all human rights and democratization issues, although it was soon joined by the OSCE High Commissioner on National Minorities (HCNM) and several years later by the OSCE Representative on Freedom of the Media (RFOM), each of whom received a clear mandate and thus the OSCE "lead" on defined issues within the human dimension of security.

Over the first two decades of ODIHR's existence, participating States collectively created several other structures within the OSCE in areas of relevance to ODIHR's mandate, such as the Strategic Police Matters Unit (SPMU), the Action against Terrorism Unit (ATU), the Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB), and the Gender Unit of the Secretariat headed by a gender adviser to the Secretary General. In addition, the OSCE Chairperson-in-Office has appointed personal representatives on such issues as combating anti-Semitism, combating racism, xenophobia, and discrimination against Christians, combating intolerance and discrimination against Muslims, and promoting gender equality. An important result of all this OSCE internal institution-building over the past 20 years has been the creation of opportunities for new synergies between ODIHR and partner bodies or individuals, but another has been to intensify the need for information-sharing and division of labour.

A new and exciting development within the OSCE in the recent past has been the creation and the subsequent evolution of the Human Dimension Committee, a subsidiary body under the OSCE Permanent Council in Vienna which meets regularly to discuss issues that largely fall within ODIHR's mandate. Particularly since the beginning of 2011, this body has become not only a forum for dialogue among participating States on such mundane issues as the timing and agenda of upcoming meetings (which dominated its early work), but also as a forum for institutions such as ODIHR to showcase their work and for states to provide feedback on how they are implementing their OSCE commitments – particularly as they relate to earlier recommendations received from ODIHR and other OSCE structures. One implication for ODIHR has been a higher level of visibility and transparency for its work in relation to the delegations that ultimately decide on matters such as ODIHR's budget and staffing table. ODIHR has welcomed this development as a tremendous opportunity to demonstrate its professionalism and even-

handedness as well as its strong interest in working with participating States to facilitate implementation of past recommendations.

Finally, ODIHR interacts regularly with the OSCE Parliamentary Assembly (PA), an OSCE body created roughly at the same time as ODIHR with members who often take a particular interest in human dimension issues. ODIHR's work has benefited greatly from initiatives first taken within the PA on issues such as human trafficking and combating intolerance, and co-operates with the PA within the framework of MC Decision No. 19/06, which describes election observation as a common endeavour involving ODIHR, the OSCE PA, and other parliamentary institutions.³ The OSCE PA's strong interest in a range of human rights issues has also complemented ODIHR's practical work, as in the case of a Resolution on Strengthening OSCE Engagement with Human Rights Defenders and National Human Rights Institutions that the PA adopted in 2007.

Outside Institutional Developments: Dialogue and Partnerships

The evolution of the European security system and the development of other institutions focusing on human rights and democracy, at both regional and global level, have had profound implications for both the focus of ODIHR's work and the partnerships through which ODIHR's objectives can be pursued. ODIHR entered the human rights field as a newcomer in 1991 with a mandate and geographic scope that were quite distinct from any other body existing at that time. This is still the case in many respects, but the past twenty years have been marked by an explosion of global and regional activity on human rights issues, which is relevant to ODIHR and has an impact on its work.

The post-Cold War establishment of ODIHR was in fact paralleled by major institutional changes within the United Nations system for protecting human rights, the enlargement and transformation of two major institutions which had previously operated only in the Western part of Europe, and the establishment of bodies such as the CIS. All of these developments created new or enhanced opportunities for partnerships with ODIHR, but also the need for careful co-ordination to avoid overlap or duplication in some cases.

It may be hard for many to recall that ODIHR was established when the UN human rights system was composed largely of its Commission on Human Rights, a number of ad hoc rapporteurs appointed on the basis of decisions of the Commission, and a set of rather moribund review bodies created under various multilateral human rights treaties. There was no High Commissioner

3 Cf. Decision No. 19/06, Strengthening the Effectiveness of the OSCE, MC.DEC/19/06 of 5 December 2006, in: Organization for Security and Co-operation in Europe, *Fourteenth Meeting of the Ministerial Council, 4 and 5 December 2006*, Brussels, 5 December 2006, pp. 58-62, here: p. 61, section 14.

for Human Rights and no Universal Periodic Review (UPR) mechanism. Nor did the UNDP have field offices throughout Europe and Eurasia with “human development” and “democratic governance” as key elements of their work plans.

To cite the implications for ODIHR of just a few UN human rights developments over the past two decades, the replacement of the old Commission on Human Rights by the newer and more dynamic UN Human Rights Council and the development of the UPR mechanism have provided new sources of information and analysis of value to ODIHR (for example in preparing for election observation missions). The creation of UN rapporteurs on such issues as human rights defenders and freedom of assembly and association have provided new partners for ODIHR on work within its core mandate.

Similarly, the involvement of the United Nations Educational, Scientific and Cultural Organization (UNESCO) on tolerance, human rights education, and Roma early education issues has provided ODIHR with a valuable partner and a means of ensuring that ODIHR’s work may become better known outside the OSCE region at the very time when ODIHR can bring more benefits from its global experience to the attention of OSCE States. On electoral issues, UN involvement in the OSCE region is most often focused on technical assistance, which complements rather than competes with ODIHR election observation. The UN Electoral Assistance Division (UNEAD) joined with ODIHR and a group now numbering almost 40 international inter-governmental and non-governmental organizations to endorse the 2005 Declaration of Principles and Code of Conduct for International Election Observation, a document consistent with ODIHR election observation methodology, for which the UN General Assembly expressed appreciation in 2009.⁴ Specific forms of UN-ODIHR co-operation outside the OSCE area are possible, especially where the state in question is an OSCE Partner for Co-operation, as in the case of Afghanistan where ODIHR has on four occasions provided limited election support in co-operation with larger-scale UN (and EU) activities.

Of course it goes without saying that there were no UN-mandated war crimes tribunals when ODIHR started its work. However, the creation of the International Criminal Tribunal for the Former Yugoslavia (ICTY), and especially the move towards winding down its work in recent years, has been another area for ODIHR’s involvement with a UN institution. In conjunction with the ICTY’s “completion strategy”, ODIHR has carried out a large-scale project together with OSCE field operations to transfer knowledge from the ICTY to local actors in South-eastern Europe.

4 *United Nations General Assembly Resolution 64/155 on “Strengthening the role of the United Nations in enhancing periodic and genuine elections and the promotion of democratization”, A/RES/64/155, 8 March 2010, operative paragraph 8.*

The CoE's enlargement to include most OSCE participating States as formal members and others as observers or members of its Commission for Democracy through Law (the "Venice Commission") has had many implications for ODIHR. During this period, the CoE transformed itself from a largely Western club to a body that now includes most OSCE States outside North America and Central Asia. At the same time, it also strengthened its human rights role both through existing institutions such as the European Court of Human Rights (ECtHR) and via new ones such as the Venice Commission and the European Commission against Racism and Intolerance (ECRI).

The parallel development of the Venice Commission over the first two decades of ODIHR's existence has required ODIHR to avoid duplication or sending mixed signals to participating States on matters relating to the conformity of electoral and other legislation with OSCE commitments and other international standards. The advantage of ODIHR and the Venice Commission working together has been to send out common messages on behalf of two respected international bodies, so that ODIHR's signature election observation recommendations are reinforced through objective and professional analysis of draft or adopted legislation.

The need for close co-ordination of ODIHR and other OSCE work on tolerance and non-discrimination issues, combating trafficking in human beings, and human rights while combating terrorism with the CoE have provided three legs of the formalized OSCE dialogue with the CoE at political level. (A fourth is national minority issues, which do not fall directly within the mandate of ODIHR because they are handled principally within the OSCE by the HCNM.) Another element of the relationship between ODIHR and the CoE comes via the parliamentary track, as members of the Parliamentary Assembly of the Council of Europe (PACE) regularly participate in international election monitoring efforts as short-term observers in partnership with ODIHR, the OSCE PA, and other parliamentary partners.

During ODIHR's first 20 years, the EU evolved from encompassing a minority of the CSCE's 35 participating States to comprising nearly half of its 56 States. EU enlargement, the EU's increasing emphasis on fundamental rights in member states as well as human rights and democracy promotion in non-member states and the evolution of European Commission funding instruments have all directly and indirectly affected ODIHR's work. This is partly because the enlargement process has included the fulfilment of OSCE human dimension commitments as key criteria and has therefore provided a powerful incentive for many participating States to seek ODIHR co-operation and advice during the process of accession.

The EU – the European Commission as well as its individual member states – has also been a generous contributor of extra-budgetary resources to ODIHR for purposes related to the meeting of accession criteria and, more generally, to the promotion of stability and adherence to international human

rights and democracy standards. Specific EU actors have mandates directly relevant to ODIHR's, including the Fundamental Rights Agency, with which ODIHR maintains co-operation on tolerance, Roma, and broader human rights issues. The EU has actually followed ODIHR into a number of areas where the latter blazed the trail, notably large-scale international election observation. To avoid overlap, the EU and ODIHR have a general understanding that the former does not observe elections in the OSCE area – just as ODIHR does not observe in other areas. As with the OSCE PA and PACE, however, European Parliament members do take part in international election observation in the OSCE area in partnership with ODIHR.

Dynamic Developments Define Priorities for Engagement

A final set of important factors affecting both the demand for ODIHR's work and its capacity to engage effectively are political developments in and among participating and partner States, the way in which individual states are fulfilling their human dimension commitments in practice, and relevant trends across the OSCE region. The actual state of human dimension implementation affects both the objective need for services, such as human rights monitoring or legislative support, and the willingness of certain states to accept ODIHR's assistance or support.

Dramatic changes in a country's human rights situation may increase or decrease the relevance of ODIHR's work in one sector or another. For example, a dramatic worsening of the human rights situation, with increasing violence or pressure on those advocating human rights, would increase the objective need for ODIHR but may regrettably also have negative effects on the willingness of a particular state to accept the support that it needs. Conversely, however, changes in political power and/or positive human rights and democracy developments can provide new opportunities to address long-term or systemic problems and may also be accompanied by an increased willingness of authorities to request ODIHR's assistance. Developments in participating States such as Kyrgyzstan, Moldova, and Georgia have at various times intensified interest in receiving relevant support from ODIHR. There is at least the prospect that the 2011 Arab Spring will have similar effects regarding some of the OSCE Mediterranean Partners for Co-operation. Already in the course of 2011, ODIHR engaged in serious dialogue with authorities of several OSCE Mediterranean Partners to outline possible forms of future co-operation. ODIHR also organized events in co-operation with the Lithuanian Chairmanship to familiarize civil society activists from Mediterranean Partners with OSCE experience in the fields of election observation, human rights monitoring, political participation, gender equality, and the rule of law.

Dramatic events in the world have a real impact on the work that ODIHR does. For example, the 9/11 attacks in the United States and other acts of terrorism in the early part of the 21st century, as well as the concern that human rights might be compromised during anti-terrorism campaigns, provided the impetus for ODIHR to step up its work on protection of human rights while countering terrorism. These events also led indirectly to such ODIHR activities as a new focus on intolerance and discrimination, including against Muslims, as well as involvement in Afghanistan as a new Partner for Co-operation that ultimately requested four separate Election Support Teams.

The war in Georgia in August 2008 was another dramatic development that led to new ODIHR action, as the Finnish OSCE Chairmanship requested ODIHR to deploy a Human Rights Assessment Team, which produced a comprehensive report on human rights in the war-affected areas. Somewhat similarly, ODIHR responded to both the April 2010 revolution and the June 2010 ethnic conflict in Kyrgyzstan by stepping up human rights support to the OSCE Centre in Bishkek and subsequently deploying three major election/referendum observation missions over a period of less than 18 months. In yet another case in which ODIHR responded to dramatic events on the ground, the 19 December 2010 elections in Belarus were a stimulus for ODIHR to engage in the trial monitoring exercise mentioned earlier in this article.

Important trends affecting the implementation of human dimension commitments across the OSCE region or in a considerable number of participating States are among the additional external factors that ODIHR must consider when designing activities within its mandate. Examples include technology-driven trends such as use of e-voting and other new voting technologies, broader e-democracy developments linked to the recent explosion in the use of social media, and the use of the internet to spread hate speech with the concomitant need to explore possible connections to hate crime.

On the darker side of this equation, ODIHR has had to react in recent years by developing new tools for monitoring and seeking to address such problems as increasing restrictions on civil society/freedom of assembly and association; manifestations of anti-Semitism, intolerance, and acts against Muslims, Christians, and other groups; and the rise of extremism and stereotyping of Roma in the context of freer European migration.

Finally, the relationships among participating States and their attitudes to the OSCE as a whole and to the state of the world economy can affect the conditions in which ODIHR works. For example, the ability of OSCE decision-making bodies to reach agreements on new commitments in the human dimension and on budgets for ODIHR – particularly increases in those budgets – have seemed to fluctuate along with the economy as well as the state of relations among key OSCE participating States over the past two decades. ODIHR's task as an executive structure has been to "go with the flow" of such changes – to take on new tasks eagerly and deploy resources

when they are generously offered, and to “buckle down” when tensions are high and budgets are flat or worse.

Conclusion

In the above survey, the author has attempted to demonstrate that a multitude of external factors have far-reaching implications for the way in which ODIHR’s management deploys the available resources to best fulfil its human rights and democracy promotion mandate. The author’s tentative conclusion is that the monitoring/reporting, advisory, assistance, and advocacy roles played by ODIHR in its first two decades will all continue to be relevant for the foreseeable future. But the OSCE will continue to change, the broader European security and international human rights architecture will continue to evolve, and there will be new developments on the ground in the OSCE region every day. ODIHR will need to change as well.

Indeed, as it has done from Ambassador Cortese’s tenure to that of Ambassador Lenarčič, ODIHR’s leadership will need to fine-tune continuously the ways in which it seeks to add value in order to best promote implementation of human dimension commitments. This will require constant attention to the mix of policy-level and programmatic approaches that are applied to any given situation or thematic issue, as well as to the balance of efforts applied to long-standing priorities such as election observation, legal reviews, and human dimension implementation meetings, in relation to new or emerging priorities such as engagement with officials and civil society to promote greater tolerance or respect for human rights while countering terrorism. Just as the ODIHR of 2011 struck Ambassador Cortese as a great-great-grandchild that he barely knew, the shape of ODIHR’s transformation over the next two decades will be a product of developments that it would be foolhardy to predict.

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 in 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 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.

The OSCE Astana Summit from a Human Dimension Perspective: A New Momentum for Advancing Human Rights and Democracy in the Region?

Introduction

When the Heads of State or Government of the OSCE's 56 participating States met in Astana in December 2010 for the Organization's first Summit in over a decade, expectations for the meeting's outcome were limited as far as human rights and democracy were concerned. For years, the OSCE's "human dimension" had been among the most divisive issues within the Organization, as states disagreed over the importance the OSCE should attach to human rights and democracy as opposed to the politico-military and economic and environmental dimensions.

Progress on developing new commitments in the human dimension had been piecemeal at best since the OSCE's last Summit Meeting in Istanbul in 1999, and had focused largely on relatively uncontroversial, albeit no less important issues such as tolerance and non-discrimination, gender equality, and Roma and Sinti rights. There were also concerns in the run-up to the meeting that Kazakhstan, which held the OSCE's rotating Chairmanship in 2010 and was the driving force behind organizing the Astana Summit, would be ill-placed to forcefully promote a human dimension agenda, considering the country's own difficulties in implementing its commitments in that area.¹ Nevertheless, after long hours of acrimonious negotiations, the delegations agreed on a Summit document, the Astana Commemorative Declaration. Somewhat unexpectedly, this document includes extensive references to the human dimension.

This article reviews the aspects of the Astana Commemorative Declaration that are relevant to the human dimension and attempts to assess its significance with regard to promoting the implementation of the OSCE's human rights and democracy commitments in the region.

Note: This article reflects the authors' opinions and not necessarily those of the OSCE or ODIHR.

- 1 See, for instance, 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>.

Despite its striking brevity, the Astana Commemorative Declaration² contains a range of human dimension provisions. In the opening paragraph, the Heads of State or Government recommitted themselves to the vision of a “free, democratic, common and indivisible Euro-Atlantic and Eurasian security community [...] rooted in agreed principles, shared commitments and common goals”.³ They acknowledged the progress that has been made, but stress that “more must be done to ensure the full respect for, and implementation of, these core principles and commitments that we have undertaken” in the three dimensions, and “notably in the areas of human rights and fundamental freedoms”.⁴ The first paragraph thus reconfirms the importance of democracy in ensuring security and stability in the region and acknowledges the implementation gaps that still exist, particularly in the human dimension.

The spirit of re-affirmation of the OSCE’s normative framework is also prominent in the Declaration’s next paragraph. After having emphasized the “relevance” of human dimension commitments, the participating States proceeded to “reaffirm their full adherence” to all OSCE norms, also stressing their responsibility to implement the entire body of OSCE commitments “fully and in good faith”.⁵ This is in keeping with the OSCE’s process-based approach, in which new documents or commitments do not replace existing ones, but rather complement them, like additional building blocks expanding an existing structure. In essence, this provision confirms that the entire catalogue of commitments remains valid and directly applicable to all states without distinction. Importantly, this paragraph contains a strongly worded affirmation of the OSCE’s comprehensive security concept, linking the maintenance of peace with respect for human rights and fundamental freedoms.

Paragraph 3 mainly deals with politico-military issues, but makes three important statements with relevance for the human dimension at the end. *First*, it reinforces once more that all commitments, without exception, apply equally to each participating State. This means that the states acknowledge that they cannot pick and choose from the existing commitments, or invoke exceptions based on historical, cultural, political, or other factors. *Second*, paragraph 3 elaborates on the notion of responsibility mentioned in the previous paragraph by referring to the concept of dual accountability that governments have accepted within the OSCE – both towards their citizens and towards each other.⁶ The latter – horizontal – aspect of the OSCE’s account-

2 OSCE, Summit Meeting, Astana 2010, *Astana Commemorative Declaration – Towards a Security Community*, SUM.DOC/1/10/Corr.1, 3 December 2010, available at: <http://www.osce.org/mc/74985>.

3 Ibid., para. 1 (emphasis added).

4 Ibid.

5 Ibid., para. 2.

6 This concept was first introduced in the OSCE’s Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-First Century, para. 5, in: Or-

ability concept is closely linked to the *third* human dimension-related element mentioned in paragraph 3 (and in more detail in paragraph 6, see below): the reaffirmation, for the second time at Summit level, of the principle developed in Moscow in 1991, according to which commitments undertaken in the human dimension are matters of immediate and legitimate concern to all participating States.⁷ A groundbreaking provision at its time, it meant that, within the OSCE framework, states have accepted that they cannot invoke the principle of non-interference in internal affairs to fend off criticism on human dimension-related issues.⁸ The Astana Commemorative Declaration confirms that such concerns affect the entire OSCE community, and all participating States have the right, and even the duty, to raise concerns in the international public interest of promoting security in the region. It is based on this provision that the OSCE has developed what is often referred to as “peer review” of the implementation of jointly agreed commitments – and the concept of horizontal accountability.

Paragraph 4 of the Astana Declaration stresses that the existing commitments establish “clear standards” for the participating States in their treatment of each other and “of all individuals within their territories”.⁹ With this, participating States accepted the commitments as benchmarks against which their performance can be measured, including for example through the observation of elections. And they stress once more one of the basic tenets of the OSCE’s security concept, namely the centrality of the individual and his or her dignity and fundamental rights and freedoms – as opposed to the interest of the state – in the way security is understood within the Organization.

Arguably the most important section in the Astana Declaration, as far as the human dimension is concerned, is paragraph 6, which is almost entirely devoted to human dimension matters. The paragraph repeats a number of the principles mentioned earlier and puts them in a specific human dimension context. It begins with a reiteration of the indispensability of the OSCE’s comprehensive security concept, with the “inherent dignity of the individual”¹⁰ at its core. The paragraph then reiterates that human rights and fundamental freedom are inalienable and that their protection and promotion must

ganization for Security and Co-operation in Europe, *Lisbon Document 1996*, Doc.S/1/96, Lisbon, 3 December 1996, pp. 10-13, here: p. 10, at: <http://www.osce.org/mc/39539>.

7 Cf. Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe, Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 605-629, here: p. 606; also available at: <http://www.osce.org/odihr/elections/143101>. It has sometimes been stated that the Astana Commemorative Declaration “elevated” the “Moscow principle” to the level of a Summit document. This is erroneous. The OSCE’s 1992 Helsinki Summit Declaration restated the language contained in Moscow in its eighth paragraph. See CSCE Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, in: *ibid.*, pp. 701-777, here: p. 702.

8 See on this point specifically Frank Evers, *The OSCE Summit in Astana – Expectations and Results*, CORE Working Paper 23, October 2011, p. 18.

9 *Astana Commemorative Declaration*, cited above (Note 2), para. 4.

10 *Ibid.*, para. 6.

be a government's "first responsibility".¹¹ By confirming this notion, first introduced in 1990,¹² the participating States endorsed, once again, the primacy of fundamental rights and their respect as the principal purpose of all government. This language goes to the heart of the OSCE's comprehensive security concept, as it places the individual, and not the state, at its centre. Consequently, all three dimensions revolve around the dignity of the human beings and their inalienable fundamental rights and freedoms. By reaffirming this concept in Astana, the participating States emphasized the conviction that lasting security is not possible without respect for human rights and democratic standards.

This language closely relates to another landmark commitment from the Paris Charter, in which the OSCE States undertook to "build, consolidate and strengthen democracy as the only system of government of our nations"¹³ and confirmed the inherent connection between human rights, the rule of law, and democracy. Reading the two quotes from Paris together leaves no doubt: The OSCE norms clearly and unequivocally define the institutional set-up that is required to ensure the protection of human rights as the primary responsibility of government. It is therefore only fair to say that the key ingredients of a functioning democratic system – free and fair elections, political pluralism, judicial independence, free media, and a strong civil society – received a vocal endorsement in Astana. The Astana Summit thus made clear that the direction of the journey on which the OSCE States set out over 30 years ago has not changed.

Paragraph 6 also reproduces the language adopted in Moscow in 1991, this time in its complete form and with the specific reference to the human dimension as contained in the original: "We reaffirm categorically and irrevocably that the commitments undertaken in the field of the human dimension are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned."¹⁴ This is followed by perhaps the most remarkable element of the Astana Declaration: an expression of appreciation of the "important role" played by civil society and free media in helping participating States to "ensure full respect for human rights, fundamental freedoms, democracy, including free and fair elections, and the rule of law".¹⁵ Considering the pressure on the media and on civil society activities in parts of the region, this sentence stands out in its political significance. By emphasizing this element in Astana, the participating States acknowledged that a vibrant NGO sector and unhindered media

11 Ibid.

12 *Charter of Paris for a New Europe*, Paris, 21 November 1990, A New Era of Democracy, Peace and Unity, para. 6, in: Bloed (ed.), cited above (Note 7), pp. 537-566, here: p. 537, also available at: <http://www.osce.org/mc/39516>.

13 Ibid., para. 5.

14 *Astana Commemorative Declaration*, cited above (Note 2), para. 6.

15 Ibid.

outlets are not merely nuisances to be tolerated, but essential contributors to democratic societies.

The Astana Declaration then turns to the need for better implementation, stressing that “respect for human rights, fundamental freedoms, democracy and the rule of law must be safeguarded and strengthened”.¹⁶ Greater efforts, the text continues, must be made to “promote freedom of religion or belief and to combat intolerance and discrimination”,¹⁷ two issues that have figured high on the OSCE’s agenda in recent years.

The Astana Commemorative Declaration’s Significance for Advancing the OSCE’s Human Dimension Agenda

Before the Summit, much has been said about the “Astana spirit”, about the renewal of the Organization, its adaptation, and meeting the challenges of the future. Consensus on what this means has been, as one commentator observed, somewhat elusive, “especially in translating verbal commitments into what makes the organization relevant: concrete action on the ground [...]”.¹⁸ One way of measuring the success of the Summit could be to ask whether the Summit document opens new vistas and a real impetus for the protection of human rights and fundamental freedoms. How would the Astana Document fare if one adopted this measure of success?

Brokering a consensus on a wide-ranging document such as the Astana Commemorative Declaration was the true success story that emerged from OSCE’s diplomatic machinery in 2010. The references to the existing catalogue of human rights commitments, in particular, were skilfully drafted to strike a balance between those who sought a maximalist position on the human dimension and those who tried to curtail and tone down references to human rights and democracy.

Indeed, there is very little in this document that is new. Taking a less favourable standpoint, one could stress that it includes language recycled from previous texts, devoid of innovation or significant advances into new terrain. Thus, while a journey through the Astana Declaration may reveal a number of significant milestones from previous OSCE documents on which the human dimension was founded, it is itself a rather static affair.

A close reading of the Declaration in today’s political context, however, yields a different conclusion. It is a conclusion that speaks more of surprise than of failure; the fact that leaders from 56 countries, despite their seemingly unbridgeable differences regarding the weight that human rights issues

16 Ibid., para. 7.

17 Ibid.

18 Christian Strohal, *Renewal or Stagnation? The OSCE and the Protection of Human Rights after Astana*, in: Wolfgang Benedek/Florence Benoit-Rohmer/Wolfram Karl/Manfred Nowak (eds), *European Yearbook on Human Rights*, Antwerp 2011, pp. 499-512, here: p. 500.

should be afforded within the Organization, could at all agree to repeat commitments they had made long ago has to be qualified as a success. As one commentator succinctly observed, “in an Organization like the OSCE, where commitments are political rather than legally binding in nature, the fact that key OSCE commitments, particularly in the human dimension, are reaffirmed by a new generation of political leaders, and that this is done in Astana, matters. It is like renewing vows after a decade of having gone astray.”¹⁹ Not only was the entire normative basis of the OSCE’s human dimension reaffirmed, the Astana Declaration effectively consolidates fundamental principles that had been scattered throughout various OSCE documents and adds an immediate auto-imperative for action: “The time has now come to act, and we must define concrete and tangible goals in addressing these challenges.”²⁰

This is particularly true for paragraphs 3 and 6 of the Astana Declaration. Arguments that attempt to fend off human rights concerns in the domestic sphere with reference to the “sovereignty shield” sound, after Astana, even more hollow than they did before. The Moscow principle is one of the unique features of the OSCE, and it is of great significance that it was reaffirmed, “categorically and irrevocably”, at the level of Heads of State or Government.

The Astana Declaration serves to highlight the remarkable achievements made over the past two decades when it comes to the OSCE’s standard-setting in the human rights field. But as shining as the standards reconfirmed in Astana may be, they also serve to accentuate the contrast between the Declaration’s lofty goals and the bleak realities in a number of participating States. Indeed, the Astana Declaration has cast a powerful spotlight on cases of non-compliance with the Organization’s reconfirmed principles. And naturally, when the light shines brighter, the shadows appear darker.²¹

Conclusion

In its human dimension, the OSCE has developed commitments that are the normative baseline upon which it has built a canon of shared values and a sense of ownership in the region. Enshrined in the OSCE’s *acquis* are some of the best-developed human rights and democracy standards in the world. The obligation to implement them in good faith is the basis for the OSCE’s understanding of the accountability of individual states – to their citizens and to other OSCE States; this was re-affirmed in Astana. This renewed commit-

19 Walter Kemp, The Astana Summit: A Triumph of Common Sense, in: *Security and Human Rights* 4/2010, pp. 259-264, here: p. 262.

20 *Astana Commemorative Declaration*, cited above (Note 2), para. 11.

21 Cf., for instance, *OSCE Office for Democratic Institutions and Human Rights*, Press Release, Promise of Astana Summit remains unfulfilled in OSCE area, ODIHR director says ahead of Human Rights Day, Warsaw, 9 December 2011, at: <http://www.osce.org/odihr/86059>.

ment provides a recalibrated yardstick against which government action can be measured. It is not only the right but indeed the responsibility of participating States to hold each other accountable for putting the commitments into practice that they themselves have voluntarily agreed to. But even more important for bringing Astana to life is the role of individuals, civil society, and the media within participating States in demanding compliance from their governments. All of these elements are needed to support reform or generate the necessary political will for reform where it is currently lacking. Seen in this light, the Astana Declaration provides governments, civil society, and international organizations with another powerful tool to demand and effect change.

To remain relevant, this optimistic view has to be counterbalanced by the sober realization that the OSCE is no longer a framework designed primarily to effectuate democratic transition. As a former Secretary General of the OSCE recently noted, transition has been stalled in a number of participating States, “and it is clear that there are divergent views and deep disagreements as to the implementation of OSCE commitments”.²² The OSCE, however, has seen in its history that the power of its documents can increase over time, despite the presence of bitter differences. Even if they may seem far-fetched or even illusionary at the time of their adoption, they can still serve as an impetus for change that can grow in momentum in the long run, as was certainly the case with the Helsinki Final Act.

The Astana Summit, which was not epoch-making, and was driven neither by great elation nor by fundamental decisions on the European security order,²³ exhibited a broad consensus on the validity and importance of standards for human rights and democracy. Since then, the OSCE has again been consumed by the systemic tension that pits the Organization’s positive global vision against its lack of concrete results.²⁴ Yet recognizing political success or failure may after all be merely a matter of chronological distance. With a little temporal separation now, and bearing in mind the failure of the OSCE’s Ministerial Council in Vilnius to pass one single human dimension-related decision, one may be more inclined to appreciate the extent to which Astana has set the benchmark for the OSCE’s 21st century engagement in the human dimension.

While it may be too early to speak of the Astana Summit as having opened “a new chapter for the OSCE”,²⁵ hope may still be justified that this

22 Marc Perrin de Brichambaut, *Is the OSCE Relevant in the 21st Century?* Transcript of Chatham House event, 7 April 2011, p. 3., available at: <http://www.chathamhouse.org/publications/papers/view/176655>.

23 Cf. 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, here: p. 23.

24 Cf. Evers, cited above (Note 8), p. 28.

25 Philip H. Gordon, *U.S. Foreign Policy and the OSCE: From Astana to Vilnius*, Statement before the Commission on Security and Cooperation in Europe, Washington, DC, 28 July 2011, at: <http://www.state.gov/p/eur/rls/rm/2011/169234.htm>.

high-level political engagement will have a strong and lasting effect at a time when human rights and democracy commitments have come under increasingly open challenge by notions of “sovereign” or “managed” democracy.

Election Observation and Its Parliamentary Dimension: 15 Years of Co-operation

Introduction: The Origin and Purpose of International Election Observation

By providing legitimacy for government, elections are the linchpin of democracy. Hence, the observation of elections by international organizations and institutions has emerged as a major instrument for assisting states and societies in their efforts to develop and strengthen democratic institutions. A number of universal and regional human rights instruments and other documents that identify electoral good practices have been adopted.¹ Unfortunately the quality of elections – worldwide and in the OSCE area – still varies considerably.

Most elections are, thankfully, conducted by honest, competent, and experienced administrations that enjoy the trust of the electorate. Then there are elections that are basically honest, yet flawed because the organizers lack competence or experience; international electoral assistance can help to eliminate such flaws. More serious are attempts to falsify results by electoral contenders or electoral administrators. Finally, there are elections where those in power lack the will to conduct them in an honest way, and the electorate consequently lacks confidence in the process.

Observers, for their part, need to be highly qualified. For the purposes of this paper, some qualifications may be singled out. Firstly, an observer has to be impartial, whatever his or her personal preferences and regardless of the election results. Problems arising from politically unwelcome results do not belong to the realm of election observation, but are matters of foreign policy and, possibly, of human rights protection. Secondly, an observer must report facts without fear or favour; particular cultural traditions or historical specificities cannot justify election fraud. Stealing an election cannot be seen as an aspect of national traditions worth preserving or tolerating. And finally, an observer must be knowledgeable about elections in all their complexity and able to deal rationally with numbers. For instance, the claim that an election is valid if 90 per cent of the vote counts are in order is a fallacy, because stealing ten per cent from the winner and giving it to the loser would, in most parliamentary elections, result in a different government.

¹ Cf. OSCE/ODIHR, *Election Observation Handbook*, sixth edition, Warsaw 2010, available at: <http://www.osce.org/odihr/elections/68439>, pp. 19-21, 100-108.

ODIHR has an imperative mandate to observe elections before, during, and after election day. This was expressly stated by the OSCE participating States in the documents adopted at the 1993 Rome Meeting of the CSCE Council and the 1994 Budapest Summit. In 1990, the CSCE Paris Summit had established the Office for Free Elections, which was renamed the Office for Democratic Institutions and Human Rights (ODIHR) in 1992. Soon afterwards, the Office began to carry out small-scale election observation, which it has since developed into a highly professional operation, becoming a global leader in the field. ODIHR's Election Observation Handbook, now in its sixth edition, describes its methodology in detail.²

The personnel of an average, medium-sized ODIHR election observation mission (EOM) are drawn from many OSCE participating States. A typical operation may comprise, for example, a core team of twelve, led by a Head of Mission (HoM), 40 long-term observers (LTOs) and some 400 short-term observers (STOs). They are assisted by locally recruited personnel. A few experts from ODIHR headquarters support the EOM, particularly around election day.

The core team is recruited by ODIHR on the basis of public advertisement. LTOs and STOs are seconded by OSCE participating States, mostly from pools of experienced personnel. ODIHR maintains *de facto* disciplinary control over its personnel via certain clauses in their service agreements or by reporting back to the seconding state. ODIHR may ask the authorities of the host country to withdraw observer status from persons who seriously violate ODIHR's Code of Conduct (and has done so).³ This personnel structure allows ODIHR to base its methodology on three pillars: professional specialization, presence in space, and presence in time.

The HoM is an experienced specialist, often a senior ambassador. The core team analysts are specialists in their own areas of responsibility: An election analyst may be a member of the central election commission of his or her country; a legal analyst, a lawyer capable of reviewing domestic legislation against international standards; and a media analyst, an expert in media monitoring methodology. The team will also include a statistician and other specialists.

Presence in space means that an EOM is stationed all over the country and is in contact with medium- and lower-level election administrations and other stakeholders.

Since an election is not a one-day event, presence over an extended period of time is of particular importance. As a rule, ODIHR has longstanding relations with a host country, and may have analysed its electoral system and legislation long before the actual observation starts. The mission itself

2 OSCE/ODIHR, cited above (Note 1).

3 Cf. *ibid.*, back cover.

begins with a needs assessment mission (NAM), whose report deals with the size of the future EOM, among other things. The core team is deployed around two months before election day, the LTOs slightly later. The mission issues a continuous stream of reports. The STOs arrive a few days before polling and leave soon thereafter, followed by the LTOs. The core team stays as long as election-related events, such as complaints and appeals or the publication of results, are expected. After about two months, ODIHR publishes its final report. This normally contains recommendations, which may be followed by election assistance projects.

Observation by the OSCE Parliamentary Assembly

The OSCE Parliamentary Assembly (OSCE PA) held its first session in 1992 and began observing parliamentary elections in December 1993. Since then, the PA has expanded the scope of its observation to presidential elections and referenda. The first recorded reference to the OSCE PA at summit level in relation to elections and election observation came during the 1999 OSCE Summit in Istanbul, notably in conjunction with its joint work with ODIHR.⁴ The PA has acquired considerable experience and expertise in election observation, although its personnel and methodology differ in important aspects from those of ODIHR. While the OSCE in general practises a system of personnel rotation, the PA Secretary General, R. Spencer Oliver, has been in his position for almost two decades, giving him a powerful influence on the conduct of election observation by the PA. He is supported in Vienna by his Special Representative, Andreas Nothelle.

The personnel of an OSCE PA election observation mission, with an average size of sixty to eighty participants, consists of parliamentarians from OSCE participating States plus a number of staff members from the Secretariat in Copenhagen or its liaison office in Vienna. The Head of Delegation, who acts as Special Co-ordinator and leads the OSCE short-term observation mission, is often the President of the PA or another OSCE PA senior official.⁵ The parliamentarians are appointed to the OSCE PA by their national parliaments, and may then participate in election observation missions. Professionally, parliamentarians may be career politicians or have backgrounds in other fields. Having been elected to their national parliaments, they possess special electoral experience from the contender's perspective and are familiar with the vicissitudes of campaigning.

4 Cf. Charter for European Security, sections 17 and 25; Istanbul Summit Declaration, section 26, both in: Organization for Security and Co-operation in Europe, *Istanbul Summit 1999, Istanbul Document 1999*, Istanbul 1999.

5 See OSCE, *Co-operation Agreement between the OSCE Parliamentary Assembly and the OSCE Office for Democratic Institutions and Human Rights*, Copenhagen, 2 September 1997, at: http://www.oscepa.org/images/stories/documents/election_observation/eo-osce-odihr_co-operation_agreement.pdf.

As to deployment in space and time, parliamentarians are also dispatched to many parts of the observed country. They normally depart on the day after the elections. The PA does not carry out follow-up in the form of election assistance projects, but publishes a short final statement. It may, however, enter into long-term relations with the parliament of the host country.

The Desirability of Joint Observation

Some elections are observed by a host of different observation missions. The danger exists that stakeholders may choose the assessment that fits them best from a variety of conflicting opinions. For voters in the host country, the long-term ODIHR EOMs are the most visible. The Commonwealth of Independent States (CIS) also deploys long-term missions in its member states, which echo the composition of ODIHR EOMs. Around election day, parliamentary observers may arrive from the OSCE PA, the European Parliament (EP), the Parliamentary Assembly of the Council of Europe (PACE), the NATO Parliamentary Assembly (NATO PA), the CIS Inter-Parliamentary Assembly (CIS IPA), as well as national parliaments. Finally, there are observer missions deployed by NGOs, both international and national. Joint assessments of elections by all these observers or assessments that come to identical conclusions are neither possible nor desirable.

It is desirable, however, that observers committed to identical democratic values should speak with one voice. This includes the two OSCE institutions, ODIHR and the PA, but also the EP, PACE, and NATO PA. Experience has shown that CIS missions' assessments often differ considerably from those of the aforementioned five institutions, although they subscribe to the same democratic values. Hence, there have been friendly contacts with CIS missions, but no division of labour or joint statements. For different reasons, the same attitude prevails with regard to NGO observers.

Co-operation between the five institutions, four of which are parliamentarian, not only serves to prevent the proliferation of potentially contradictory assessments, there is also added value in co-operation between parliamentarians and an executive institution such as ODIHR. Joining forces gives the overall effort more weight. Parliamentarians sometimes contribute a high political profile that increases media interest. ODIHR personnel, the HoM and the core team in particular, often possess appropriate expertise, including technical, diplomatic, geographic, and linguistic skills.

The most important reason for co-operation, however, is that ODIHR's long-term observation of the entire territory of the host country is the basis on which meaningful joint observation is possible. The parliamentarians' stay in the country is generally too short for a meaningful assessment of the long-term aspects of an election process. When the parliamentarians arrive, sixty

or so ODIHR experts, supported by an equal number of carefully chosen national assistants, will already have spent some two months monitoring and analysing all aspects of the election process.

The Co-operation Agreement of 2 September 1997

On 2 September 1997, the OSCE Chairman-in-Office (CiO) and the PA President signed the “Co-operation Agreement between the OSCE Parliamentary Assembly and the OSCE Office for Democratic Institutions and Human Rights” (CA).⁶ The need to conclude an administrative agreement on procedures between two institutions belonging to the same organization may require some explanation. In its preamble, the CA calls for closer co-operation and avoidance of overlap, redundancy, unnecessary expense, and confusion. Its larger context concerns the PA’s position within the structures of the OSCE as a whole.⁷

According to the Agreement, the CiO “may designate a political figure as a Special Co-ordinator to lead the short-term OSCE observer mission. This political figure should normally be the President of the OSCE PA [...] This Special Co-ordinator will work closely with the OSCE/ODIHR On-site-Co-ordinator and will deliver the preliminary post-election statement in conjunction with other appropriate officials.”

Besides this regulation of the division of labour at the top, the Agreement contains obligations for the provision of information, mostly by ODIHR to the PA. These obligations include “regular field reports from the ODIHR On-site Co-ordinator and long-term observers”; copies of election laws and similar material; names and origin of STOs; deployment suggestions; a separate oral briefing for PA STOs; the draft final report; and participation in the NAM. For its part, the PA is obliged to share its briefing books and its draft final report with ODIHR; provide the latter with the names and origins of its STOs; inform ODIHR about any pre-election programme and logistical arrangements it might have agreed upon with the local parliament; invite the On-site Co-ordinator to its internal post-election debriefing; and co-organize, whenever possible, common briefings and de-briefings for all observers. Finally, the Agreement obliges the ODIHR EOM to assist the PA with critical logistical support concerning accommodation, cars and drivers, and interpreters, and to provide a security assessment.

⁶ Ibid.

⁷ Cf. Andreas Nothelle, *The OSCE Parliamentary Assembly – Driving Reform*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2006*, Baden-Baden 2007, pp. 347-373, here: pp. 357-358.

The CA provides the basis for reasonable co-operation between the two OSCE institutions. The ideal EOM, as described by the CA, starts with a NAM, which is composed of Warsaw-based ODIHR election advisers and a representative of the PA. As a rule, the participants in NAMs know one another well and co-operate without difficulty.

After deployment, the ODIHR mission starts fulfilling its informational obligations towards the PA. The mission issues interim reports, which are made public, and provides the PA with a summary of LTO weekly reports, which are not publicly available. The summary contains the most relevant findings from the vast quantity of information provided by the LTOs every week. Each summary includes a cover note stating that it is an internal document and not for public consumption, and that the information contained therein has not been fully fact-checked and confirmed. This precaution is necessary because the leaking of sensitive or compromising information may impact upon the well-being, security, or livelihood of an interlocutor, a staff member, or even an EOM observer. However, the Special Co-ordinator or his or her designated representatives have full access to review all LTO reports, which they may do when they arrive to lead the short-term OSCE observer mission or during earlier visits. In the interest of secure management of information, this review takes place on EOM premises.

After the arrival of the Special Co-ordinator, there is an early meeting to discuss all issues of concern, in particular modalities of the preliminary post-election statement (PPS), to be delivered at a press conference on the day after the election. After this, the heads of the various observer delegations or missions that are to participate in the press conference (there may be as many as five) generally meet over dinner for an open discussion. Normally on the next day, the EOM, including most of its analysts, participates in an information briefing that the PA organizes for its mission members; this involves a series of meetings with key interlocutors to provide an overview of the situation. Discussions on the PPS continue at HoM and working levels. On the morning after election day, a representative of the EOM attends an internal PA debriefing and presents the mission's election-night findings. Afterwards, the HoMs attend a meeting held on the EOM's premises, where they discuss and adopt the final version of the PPS. A press release is then drafted, and the principals' personal press statements are co-ordinated.

It is not always easy for up to five HoMs to reach agreement, but it is generally feasible. At the subsequent press conference, the Special Co-ordinator delivers the PPS, after which he or she and the other HoMs make statements on behalf of their respective missions or delegations. Most of the parliamentarians and their support staff leave soon after the press conference, so that the debriefing of the seconded STOs and, later, LTOs takes place without them. The EOM stays on to observe post-election developments,

such as outstanding complaints and appeals and the announcement of results. As described here, this scenario of ODIHR/PA co-operation under the CA sounds satisfactory. It is therefore difficult to understand why there should be problems.

Points of Contention

In the past, differing views as to how the CA should best be implemented have led to disagreements among OSCE parliamentarians and between the OSCE PA and ODIHR that have impacted negatively on co-operation. There have been oral statements, position papers, and letters of complaint to the respective CiOs – some of it regrettably polemical. A number of recent OSCE Chairmanships have attempted to resolve some of the issues, but with little success. While constantly reassessing its own performance, ODIHR has made serious efforts to improve co-operation and find ways to address and accommodate PA requests.

By no means all of the joint ODIHR/PA observations have suffered from these disagreements. From his personal experience, the author would single out the OSCE observation of the 2004 Ukrainian presidential elections as an outstanding example of excellent ODIHR/PA co-operation. This was the time of the so-called Orange Revolution, when dangerous tensions in the country placed a heavy burden of responsibility on the OSCE observers, led by the Special Co-ordinator, Bruce George. Equally excellent was the co-operation in Belarus in 2010, which is described at the end of this paper. Alas, the author also witnessed a particularly low point: The joint observation of the parliamentary elections in Serbia 2007 culminated in an irresponsible letter of complaint about ODIHR by the Special Co-ordinator, which was even briefly placed online.

So what are these points of contention?

Some of them deal with technical aspects of ODIHR/PA co-operation, such as the exchange of information. The solution to such problems is contained within the CA and is discussed above in the section on “Implementation of the Co-operation Agreement”. If unforeseen technical problems arise, both sides should feel responsible for discussing and solving them privately and in a non-confrontational manner. There are, however, two points of substantive disagreement, and these are addressed in the following two sections: the claim that there is a hierarchical relationship between the PA and ODIHR, and relations with Russia and the CIS.

Claims have been made that the CA tasked the OSCE parliamentarians with taking the lead within an election observation operation; that the Special Co-ordinator has the final decision on the text of the PPS; and that the “On-site Co-ordinator”, who must not call himself Head of Mission, is not entitled to make remarks at the post-election press conference. These interpretations of the CA are excessive and in direct contravention of the distinct election observation mandate that the OSCE participating States have given ODIHR.

While it is true that the OSCE should speak with one voice, ODIHR and the PA are two separate institutions with distinct mandates and methodologies and must be identifiable as such. The CA only states that the Special Co-ordinator is to lead the short-term OSCE observer mission and “will deliver the preliminary post-election statement in conjunction with other appropriate officials”. It does not speak of “leadership” over the whole exercise, which includes both long-term and short-term components. Under the heading, “Exchange of Information,” the CA speaks of “each observation mission”, which indicates that there are two separate missions. Consequently, a key OSCE Ministerial Council Decision on this subject uses the term “partnership”.⁸

Nothing in the CA prevents either mission from using, within the scope of its administrative autonomy, the term “head” for its leader. It makes no difference that the leaders’ titles are, for the purpose of CA implementation, Special Co-ordinator and On-Site Co-ordinator, respectively. The contrary view, sometimes taken by PA representatives, neglects practical necessities that make the position of a Head of Mission imperative. ODIHR long-term missions are often of a considerable size, and they have to ensure high-level attention from authorities and stakeholders in the host country.⁹

In particular, nothing in the CA gives the Special Co-ordinator the final decision on the text of the PPS. On the morning after the election, most of the text of the PPS relating to the long-term aspects of the election observation will have already been agreed upon, as it concerns elements prior to election day proper; these elements will have been reviewed and commented on by all observer delegations involved. What remains to be negotiated between the participants is mainly the section summarizing election-day observation, and they have to negotiate until they reach a decision. To give the final say to the Special Co-ordinator would risk downplaying the results of the negotiations and observation by all participants. To exclude the ODIHR HoM from the podium or from active participation in the press conference would be baffling

8 Decision No. 19/06, Strengthening the Effectiveness of the OSCE, MC.DEC.19/06 of 5 December 2006, in: Organization for Security and Co-operation in Europe, *Fourteenth Meeting of the Ministerial Council, 4 and 5 December 2006*, Brussels, 5 December 2006, pp. 58-62, here: section 2, para. 15, p. 61.

9 The title “On-site Co-ordinator” is not used by ODIHR. As the scope and nature of ODIHR election observation has evolved, the more accurate title “Head of ODIHR Election Observation Mission” has been in use for over a decade.

to representatives of the media, since they know the HoM from the press conference at the start of long-term observation and from numerous interviews given to both domestic and international media.

The claim of hierarchical relationship ignores the complex nature of the electoral process. This process involves what may be called “providers” and “users”. “Providers” include the election administration and its voluntary helpers, the courts, public security officials, the media, the administrators of the electoral roll, statisticians, computer experts, and so on. An ODIHR core team is composed in such a way that each of these aspects is covered by a corresponding specialist. The “users” are primarily the voters, i.e., the sovereign people, and secondly the politicians seeking election. From this perspective, the valuable experience that parliamentarians have as “users” in their own countries is indeed essential. When it comes to practical work, however, some modesty is appropriate. Being human beings, neither parliamentarians nor ODIHR analysts are above making mistakes, and some may even consciously violate their code of conduct.

Relations with Russia and the CIS

A number of CIS countries, led by Russia, have in the past voiced dissatisfaction with OSCE election observation activities and have made proposals, some of which would harm OSCE commitments and observation by ODIHR.¹⁰ This paper is not the place to discuss the Russian initiative, which has been the object of discussions among the OSCE participating States. Of interest here are some points on which representatives of the OSCE PA seem to support CIS positions that can be harmful.

One of the most frequent criticisms voiced by some CIS countries towards ODIHR is that of double standards. The allegation is that elections in CIS countries are observed according to stricter standards than those in Western countries. The OSCE PA has also used the term “double standards” in this context.¹¹ It is correct that genuine double standards in observation must be avoided. However, if there is a double standard here, it is not in the observation, but in the elections observed. A dividing line runs through the OSCE participating States: Some states largely meet OSCE standards, while others generally fail to do so.

Russia has challenged ODIHR’s observation methodology on a number of points arguing, for example, “that in order to avoid double standards, ODIHR should observe elections not only in one particular subregion, but

10 Cf., e.g., Republic of Armenia, Belarus, Kazakhstan, Kyrgyz Republic, Russian Federation, Republic of Tajikistan, Republic of Uzbekistan, *Draft Decision on OSCE/ODIHR Observation of National Elections*, PC.DEL.898/07, 18 September 2007.

11 Cf. R. Spencer Oliver, *Remarks on Election Observation to the U.S. Helsinki Commission*, Washington, DC, 17 September 2008, p. 4; see also Nothelle, cited above (Note 7), p. 365.

across the entire OSCE area. At a minimum, [Russia] argued, ‘long-standing democracies’ should not be shielded from an objective assessment of, and regular check-ups on, the state of their democracy, and particularly the state of their election-related procedures and practices. Excluding one group of countries by default from election-related scrutiny would run against the principle of sovereign equality of all states enshrined in the 1975 Helsinki Final Act”.¹² Some of these arguments, which are understandable in principle, are shared by representatives of the OSCE PA.¹³ Technically and financially, however, it is impossible to have full EOMs in all OSCE participating States. It is the purpose of the NAMs (in which PA Secretariat staff members participate) to identify the appropriate observation format for each individual case.

CIS EOMs do not normally question the legislation or official rules of the host country, and rather focus on violations of such rules by an opposition that is often fighting an uphill battle. Similar views have been taken by representatives of the PA regarding claims that OSCE EOMs should not question national legislation. The ODIHR Director disagrees: “There seems to have been a tendency lately to argue that international obligations are to be viewed through the prism of national legislation. National legislation cannot be the ultimate yardstick if that legislation is not in line with the international standards adopted by that country.”¹⁴

In some countries, ODIHR long-term observers receive confidential information from individuals who fear sanctions from the authorities. For an EOM to protect such sources is not easy and makes necessary certain restrictions in the distribution of the information gathered. The authorities have been known to exert pressure on an EOM to disclose its sources. Criticism of such restrictions by PA representatives complicates source protection by ODIHR.

12 Jens-Hagen Eschenbächer/Bernhard Knoll, *Observing Elections in “Long-Standing Democracies”: Added Value or Waste of Money?*. In: Institute for Peace Research and Security Studies at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2010*, Baden-Baden 2011, pp. 247-263, here: p. 252-253. Eschenbächer and Knoll add that “criticism of ODIHR observation activities began after its assessments of the Duma and presidential elections in the Russian Federation in 2003 and 2004, and its reporting on fraud in the Georgian parliamentary elections of 2 November 2003, and was reflected in the CIS Summit Document of June 2004 which claimed that ODIHR’s election observation activities were politically motivated. Criticism towards ODIHR has largely focused on its election observation mandate and methodology, rather than on the substantive findings of its reports. Calls for more transparency and accountability, combined with allegations that ODIHR applies ‘double standards’ – i.e. a lack of ‘geographic balance’ or ‘equal treatment of participating States’ in regard to election observation – continue.” Ibid., p. 253, Note 20.

13 Cf. Oliver, cited above (Note 11), p. 5.

14 Ambassador Janez Lenarčič, *Remarks at the CIS IPA Conference on “International Electoral Standards and National Electoral Systems: Correlation of Development”*, 18 January 2011, on file with the author.

I was pleased to be appointed Head of the ODIHR election observation mission to the 19 December 2010 presidential elections in Belarus. Having been the ODIHR EOM HoM in that country in 2006 and 2008, I had continued to entertain good and correct relations with both the authorities and the opposition. I hoped to see further improvements – if only in small ways – in the conduct of Belarusian elections, which had previously been unsatisfactory. I also looked forward to further improvement in co-operation with the PA, and, in this regard, was not disappointed.

The 2010 mission went well according to the rules of the CA, largely as described above. The PA received two interim reports and the summaries of LTO weekly reports. Upon arrival, the Special Co-ordinator, British parliamentarian Tony Lloyd, had a discussion with me, which showed a genuine will to co-operate on both sides and a meeting of minds regarding substance. Mr Lloyd visited the analysts and assistants in their offices. The PPS was discussed continuously and at different levels until the day after the election. On election day, 19 December, Mr Lloyd and I had a friendly meeting with the Head of the CIS mission, Sergei Lebedev, after which Mr Lebedev and I met media representatives, but did not make joint statements.

On 20 December, I participated in the 8:30 a.m. parliamentary debriefing, and, at 10:15 a.m., the discussion of the draft statement took place in a friendly and businesslike atmosphere. Good co-operation continued through the press conference until the end of the mission. Secretary General Oliver, when he took his leave from me, commented positively on this co-operation. The OSCE as a whole has profited. I see no reason why this should not always be the case.

The criticism of certain phenomena in this paper is meant to clarify problems to help overcome them. ODIHR and the PA are bound by the same democratic values based on the same OSCE commitments. Yet they have distinct roles and mandates, and their relationship cannot be hierarchical. It is not clear why there should be problems as long as ODIHR refrains from challenging the position of the Special Co-ordinator as provided for in the CA and informs the PA as it did in 2010 in Belarus, and as long as the PA refrains from challenging the role and the mandate of the ODIHR HoM. At the working level, ODIHR and the PA Secretariat have established friendly and co-operative day-to-day relations. If the leaders want to meet their high responsibility regarding the time-honoured human dimension of the OSCE, they have to co-operate in good faith. Belarus 2010 has shown that such co-operation is perfectly possible.

Democracy as a System of Institutions and Practices: The Dynamic Legacies and Living Commitments of Key OSCE Documents

Introduction

In his book *Democracy and Its Critics*, justly considered one of the most profound accounts of democratic theory in the contemporary literature, Robert Dahl writes:

At the outset we confront the fact that in both ordinary and philosophical language democracy may properly be used to refer both to an ideal and to actual regimes that fall considerably short of the ideal. The dual meaning is often confusing. In addition, if democracy is both an ideal and an attainable actuality, how are we to judge when an actual regime is sufficiently proximate to the ideal that we can properly regard it as a democracy?¹

Responding to this question, Dahl concludes that it is impossible to formulate an adequate democratic theory by using a purely philosophical or deductive approach. There is a significant empirical component in democratic theory informed by historical experiences and actual political arrangements. In attempting to reveal the meaning of democracy, we must not overlook “the conditions that would facilitate the development, and the continuing existence, of the institutions that are necessary to a democratic order”.²

This is the conventional approach taken by historians of political thought, who tend to derive the fundamental premises of democratic theory not only from the realm of pure reason but also, to no lesser extent, from texts intended to address issues of practical relevance, such as the *Declaration of the Rights of Man and of the Citizen* and the *Federalist Papers*. Typically, these documents are nation-specific, even if their conclusions can be generalized and universalized.

In the study of international relations, there is a long-standing tradition of “realism”. While it ultimately aims at maintaining international peace and is therefore not devoid of humanistic content, realism attaches no special importance to fundamental democratic values. The situation started to alter in the post-war period, but profound change occurred only at the end of the last century, when a powerful third wave of democratization, culminating in the

1 Robert Alan Dahl, *Democracy and Its Critics*, New Haven 1989, p. 6.

2 Ibid., p. 8.

collapse of communist regimes in Europe, triggered a fairly broad international consensus on the desirability and possibility of basing the international system on democratic principles.³ The essence of this emerging consensus was encapsulated in various documents of the Organization for Security and Co-operation in Europe (OSCE), which codified the commitments of its participating States in the sphere of democracy and human rights. These included the *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*⁴ of 29 June 1990 and the *Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE*⁵ of 3 October 1991.

Currently, the profound importance and impact of the Copenhagen and Moscow Documents for our understanding of democratic theory and practice is reflected rather narrowly in the scholarly literature. Although they fully recognize the importance of these documents as a source of international obligations, researchers tend to refer to them mainly when dealing with specific issues that require legal interpretation.⁶ This article aims at presenting a wider vision of the contribution made by the Copenhagen and Moscow Documents to democratic theory and practice. I argue that these documents present not only a set of practical commitments, but also a systematic vision of the principles of democratic government. The systemic integration of democratic standards is achieved at two levels: institution building and political practice. In order to substantiate this argument, I will review the ways in which the Copenhagen and Moscow Documents address three key elements of democracy: the representative character of government and democratic elections; freedom of political assembly and political pluralism; and democratic parliamentary norms, political responsibility, and the rule of law. Special emphasis will be placed on the influence of the Copenhagen and Moscow Documents on national and international legislation, enforcement, and government practice.

3 Cf. Thomas M. Franck, The Emerging Right to Democratic Governance, in: *American Journal of International Law* 1/1992, pp. 46-91.

4 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe, Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 439-465; also available at: <http://www.osce.org/odihr/elections/14304> (hereinafter: Copenhagen Document).

5 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991, in: *ibid.*, pp. 605-629; also available at: <http://www.osce.org/odihr/elections/14310> (hereinafter: Moscow Document).

6 Cf. Gregory H. Fox/Brad R. Roth (eds), *Democratic Governance and International Law*, Cambridge 2000.

Over the past decade, international democratic practice has encountered a problem regarding the choice of criteria used to assess political development trends in particular countries. There is a widespread approach, known in the literature as *sequentialism*, according to which evolution to democracy can and should be slow and gradual, starting not with free elections but rather with institutional changes within the framework of authoritarianism.⁷ The adherents of sequentialism are primarily concerned with the improvement of law and order, which they view as a primary precondition for democracy, but it is also not unusual for them to discover signs of progress towards democracy in developments such as the consolidation of the ruling party and other organizations controlled by authorities, and the gradual amplification of freedom of speech within the limits set by authorities. This approach directly follows from the assumption that all institutions have the potential for democratic development.

The historical landscape in which the Copenhagen and Moscow Documents were adopted suggested a different vision of the role of institutions in political development. The demise of communist regimes that were highly institutionalized along all the key parameters topped the world political agenda at that time. For this reason, one of the crucial assumptions of the Copenhagen Document is that no institutions in themselves, however strong and stable they might seem, should be considered an adequate basis for progressive political development. Rather, section 6 of the Copenhagen Document reads:

The participating States declare that the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government. The participating States will accordingly respect the right of their citizens to take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes.

Here, the Copenhagen Document largely follows Article 21 of the *Universal Declaration of Human Rights*, but with one amendment that makes a crucial difference: In order to properly serve as an expression of the will of the people, elections have to be fair.

Indeed, the wording in the Copenhagen Document twice emphasizes the obligation of the participating States to hold free and fair elections. This is essential for understanding the difference between the sequentialist approach and the approach that can be found in the Copenhagen Document. It is well known that the institution of elections exists not only in democracies but also

⁷ Cf. Thomas Carothers, The “Sequencing” Fallacy, in: *Journal of Democracy* 1/2007, pp. 12-27.

in many authoritarian and semi-authoritarian regimes. Electoral authoritarianism is, in fact, the most widespread variety of non-democratic rule in the contemporary world.⁸

Do improvements to elections at the institutional level, such as the improvement of the equipment used by election-management bodies, the better organization of the electoral process, and the application of new vote-counting methods, contribute to the development of mechanisms for the expression of the people's will? According to the Copenhagen Document, the answer is not necessarily positive. Institutional improvements of this kind provide only the preconditions upon which the free and fair nature of democratic elections can be founded. The characteristics of free and fair elections as formulated in section 7 of the Copenhagen Document should be viewed in the context of the totality of the participating States' commitments. Certainly, many of these characteristics can be found in earlier documents, including the Universal Declaration of Human Rights. The uniqueness of the Copenhagen Document, however, lies in the fact that it reflects state practices and draws upon lessons learned while looking beyond merely conceptual requirements and highlighting practical implications.

According to the Copenhagen Document, free competition implies "the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination".⁹ This provision means that party membership should not be regarded as a condition of eligibility. The importance of this provision is obvious, given that the participation of independent candidates is either forbidden or restricted in a number of states. Such practice is normally connected with application of the party-list proportional representation system. It should be noted, however, that in principle such systems do not actually rule out independent candidates' participation in elections. This possibility largely depends on the political will of legislators. In fact, when justifying restrictions, their proponents often resort to an effectively sequentialist logic, arguing that, since institutional consolidation of political parties is good in itself, measures compelling politicians to join parties are admissible. The Copenhagen Document, however, relies on a different logic: It stipulates that the right of individuals and groups to establish, in full freedom, their own political parties should also be free from abusive restrictions, and it introduces a set of criteria for defining fair and free elections. One is that administrative action, violence, and intimidation should not bar parties or candidates from freely presenting their views and qualifications to the public. Voters should also not be prevented from learning and discussing the issues, and they should be able to cast their votes free from fear of retribution. This principle also entails the following: No legal or administrative obstacle should stand in the way of access to the

8 Cf. Jennifer Gandhi/Ellen Lust-Okar, Elections Under Authoritarianism, in: *Annual Review of Political Science* 2009, pp. 403-422.

9 Copenhagen Document, cited above (Note 4), section 7.5.

media on a non-discriminatory basis for all political groups and individuals wishing to participate in the electoral process.

These criteria from the Copenhagen Document have preserved their practical importance. The often biased attitude of the mass media during election campaigns can result in the authorities receiving more opportunities to express their political positions and platforms. The mass media often take statements made by ruling party leaders outside election campaigns and present them as elements of news broadcasts, while other parties and candidates have to fit within the limited airtime and print space that is allocated for their campaigns, if this is even provided for by law. Independent journalists often self-censor when covering election campaigns, as laws establish legal liability for statements broadly interpreted as slanderous, extremist, or “violating copyright”. Moreover, restrictions are sometimes imposed on the registration and distribution of newspapers during elections; printed copies of newspapers have been even seized in some instances. These measures are usually based on the laws in force, even if applied unevenly to different political actors, and justified by the particular values of the constitutional state in question.

By placing the content of the political process above its formal characteristics, the Copenhagen Document renders this kind of justification unacceptable. The Document attaches special importance to ensuring that the composition of the legislature is based on the election results. In fact, electoral fraud remains a widespread practice. Although it can be minimized through greater systemization of the electoral process, this is not equivalent to ensuring the fairness of elections. Therefore, the elimination of fraud, as understood according to the Copenhagen Document, requires the effective commitment of election organizers, in terms of both political will and the technicalities of vote counting. The Document commits participating States to invite foreign and domestic observers as an important sign of their political will to eliminate election irregularities.

Since 1991, OSCE participating States have made significant progress in developing democratic election standards. The *Budapest Summit Declaration* (1994) states that democratic values are fundamental to the goal of the participating States to become a community of nations (sections 7, 14). The *Lisbon Summit Declaration* (1996) acknowledges the need for democratization processes and co-operation for the consolidation of democratic gains (section 4). In the *Istanbul Summit Declaration* (1999), the participating States express their commitment to free and fair elections as the only means of ensuring a stable basis for democratic development (section 26). Other international organizations specializing in this field, especially the Venice Commission of the Council of Europe, have greatly contributed to development of the principles of the Copenhagen and Moscow Documents. The Copenhagen Document has therefore provided a solid basis for this progress towards accountable, transparent, and open democracy. In contrast to the sequentialist approach, the Copenhagen Document prioritizes the content of the

political process and the capacity of a range of institutions to ensure true democracy, rather than the mere existence of democratic institutions.

Political Pluralism

The historical context in which the Copenhagen and Moscow Documents were adopted conditioned their focus on problems of democracy, the demise of single-party communist regimes being the key event of the time. It is therefore obvious why recognition of political pluralism with respect to political organizations became one of the central provisions of the OSCE's commitments in the human dimension. In particular, the documents establish "clear separation between the State and political parties" preventing political parties from being "merged with the State".¹⁰ In 1990, this was a new and unprecedented approach. Today, there are only few formal single-party systems left in the world, and the identity of party and state may have passed into history. But this does not mean that the corresponding provisions of the Copenhagen and Moscow Documents have done likewise.

The concept of political pluralism in the Copenhagen and Moscow Documents is much broader than a simple negation of the most straightforward forms of political monopoly. It is integrated with a systematic vision of democracy as a political order based on the expression of the will of the people in a fair and free election. The Copenhagen Document lists the "right of individuals and groups to establish, in full freedom, their own political parties or other political organizations"¹¹ as a feature of such elections. The Document stresses that political parties and organizations should have the necessary legal guarantees to enable them to compete with each other on the basis of equal treatment before the law and by the authorities. Hence, the absence of a single-party system is not equivalent to the presence of political pluralism. Political pluralism can only be said to truly exist when, alongside the existence of a multiparty system, the criteria suggested by the expression "in full freedom" have also been met.

Many adherents of the sequentialist approach to democratization ground their arguments on political pluralism. These arguments are often derived from the political practices of Eastern European, Central European, and post-Soviet countries shortly after the collapse of communist regimes. The destruction of official political monopolies resulted in the emergence of dozens of new political parties. Despite having no mass support among the electorate, many of them were able to win sufficient votes to be elected to parliament. In some places, the presence of too many parties in parliament resulted in excessive fragmentation, and adherents of sequentialism use this adverse consequence to support their key thesis about the consolidation of institutions

10 Ibid., section 5.4.

11 Ibid., section 7.6.

being more important than the improvement of basic features of democracy, claiming that the main priority should be placed on the institutional development of a comparatively small number of “viable” parties. Limiting the formation and functioning of political parties, including their participation in elections and representation in elected bodies, is often considered the main way to achieve this goal of formal institution building. Indeed, as some governments contend, the presence of numerous short-lived parties can disorient voters and even contribute to political manipulation. Therefore, the idea that the electoral marketplace should not be entirely open has become acceptable to some states in the OSCE region. But when assessing the benefits and limitations of this idea, it is of primary importance to take into account the priorities that guide the legislators when imposing restrictions on the formation and functioning of parties. The Copenhagen and Moscow Documents prioritize complete fulfilment of the will of the people, which implies freedom of political expression for various social groups. As for the institutional development of parties, this goal, though very important, is not always a matter of top priority.

With regard to party registration, there is a tradition of political thought that views parties as private associations of individuals requiring no official recognition. An alternative approach is that the official registration of parties is useful, primarily due to the public funding of political parties, which has become widespread. Furthermore, official registration prevents the abuse of party identity (names and symbols) by dishonest rivals. When introducing party registration, the legislature generally imposes certain requirements on political parties. They may be required to provide evidence of minimal support and details of the composition of governing bodies and policies, as well as to pay a registration fee. The practice of registration does not conflict with the commitments in the Copenhagen and Moscow Documents, but the issue of proportionality should be analysed. Thus, if evidence of minimal support requires only the provision of dozens or hundreds of signatures of citizens who support the idea of forming a new party, such requirements do not infringe upon the principle of political pluralism, but are appropriate for preventing the formation of “frivolous” parties whose leaders are not interested in pursuing serious political goals. Unfortunately, in some countries restrictions related to party-formation procedures go much further, and the legislature may, for instance, define a minimum number of party members, sometimes amounting to several thousand or even tens of thousands. Such excessive requirements, being obviously unrealistic, undermine healthy competition by giving the existing and ruling parties a tangible advantage.

Similar logic can be applied to registration terms for parties and candidates running in elections. Such terms are set by legislatures in the majority of countries. They normally stipulate the collection of signatures in support of a nomination, and sometimes election deposits that are returned only if the party or the candidate receives a certain number of votes. As a rule, the terms

are usually moderate and aimed at the exclusion of “frivolous” parties and candidates. However, in some countries the election deposit is so high that it actually restricts eligibility and begins to resemble qualification through property ownership. Unfortunately, even relatively harmless requirements, such as the collection of signatures, have been used to limit political pluralism over the past decade. This becomes possible above all when parties or candidates are required to collect an inflated number of signatures. Such requirements are often combined with dishonest practices in signature verification. The uncertainty of verification criteria and the use of purely technical verification procedures (such as checking the correctness of signatories’ addresses, the precision of their personal identification data, and the graphology of their signatures) have sometimes led to the mass disqualification of parties and candidates. Political pluralism in the broad sense, as reflected in the Copenhagen and Moscow Documents, implies not only free participation of political parties and candidates in elections, but also a real opportunity to be elected. Indeed, only in this way can the will of the people be exercised.

Opportunities for enhancing pluralism depend on the election system in a given country. The OSCE documents provide no recommendations on which of the two most widespread varieties of election system – proportional representation and majoritarian – better ensures political pluralism. This is quite understandable. On the one hand, both contain built-in barriers to the representation of small parties. On the other, either can be arranged in a way that makes these barriers acceptable and prevents fragmentation or the intentional restriction of pluralism. In majoritarian systems, restrictions on pluralism can be imposed by unfair (unequal and/or politically biased) districting. In proportional representation systems, equal representation can be hampered by excessively high legal thresholds of representation. Contemporary democratic practice shows that thresholds exceeding five per cent can lead to considerable divergence between election results and the composition of parliaments. Resolution 1547 (2007) of the Parliamentary Assembly of the Council of Europe, on the state of human rights and democracy in Europe, reads: “In well-established democracies, there should be no thresholds higher than 3% during the parliamentary elections.”¹²

The Copenhagen and Moscow Documents have considerably influenced international law in the sphere of freedom of association. Norms enshrined in these documents have been incorporated in a number of documents passed by the Parliamentary Assembly of the Council of Europe and its advisory body, the Venice Commission. The key documents are Resolution 1308 (2002) on restrictions on political parties and Resolution 1736 (2010) on the code of good practice in the field of political parties. The commitments found in the Copenhagen and Moscow Documents have significantly influenced decisions of the European Court of Human Rights (ECtHR), including such important

12 Parliamentary Assembly, Council of Europe, *Resolution 1547 (2007), State of human rights and democracy in Europe*, section 58.

cases as *United Communist Party of Turkey and Others v. Turkey* of 1998 (19392/92), *Socialist Party and Others v. Turkey* of 1998 (26482/95), and *Presidential Party of Mordovia v. Russia* of 2004 (65659/01).

The systematic vision of democracy presented in the Copenhagen and Moscow Documents includes political pluralism as a major practical benchmark. Institutional consolidation of political parties certainly fosters democratic development, but it is important that efforts aimed at consolidation should not lead to restriction of opportunities for expression of the will of the people in fair and free elections. Such restriction poses a risk for democracy, especially at the start of a democratic transition process, as it can lead to the authoritarian transformation of elections and political parties, forcing them to gradually adapt to the non-competitive political environment and lose their sensitivity towards people's needs, which would eventually result in institutional degradation.

Parliamentarianism and the Rule of Law

Sequentialism emerged as a reaction to the approach known as electoralism. The "electoralist fallacy" equates elections with democracy, but this is erroneous if elections are devoid of real competition, and if they do not function as mechanism for the alternation of power.¹³ Thus, not every electorally sanctioned political regime is democratic. While recognizing fair and free elections as a precondition for and a decisive characteristic of democracy, the OSCE documents provide a set of criteria that allow for making distinctions among different stages of democratic development. The Copenhagen Document observes that "vigorous democracy depends on the existence as an integral part of national life of democratic values and practices as well as an extensive range of democratic institutions".¹⁴ Thus democratic values and practices should be realized not only in elections, but should also inform and guide the work of a range of democratic institutions. What institutions are implied in the documents?

First of all, these are the representative bodies of government. The Copenhagen Document states that democracy is "a form of government that is representative in character, in which the executive is accountable to the elected legislature or the electorate".¹⁵ Democracies can exist in two institutional forms: parliamentary (in which the executive is accountable to the elected legislature) and presidential (in which the executive is directly accountable to the electorate). But both forms attach special importance to parliaments because of their exceptional role in the legislative process, which is

13 Cf. Philippe Schmitter/Terry Lynn Karl, *What Democracy Is ... and Is Not*, in: *Journal of Democracy* 3/1991, pp. 75-88.

14 Copenhagen Document, cited above (Note 4), section 26.

15 Ibid., section 5.2.

key to the functioning of a democratic state. The Moscow Document states that “legislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives”.¹⁶ It is worth mentioning that this commitment to an open process has no equivalent in earlier or subsequent international documents, which makes it even more important to discuss its implications. An open legislative process involving the collective development of draft laws, their public discussion, and the voting process, should be achieved on the parliamentary floor.

However, the existence of a parliament, even if elected in fair and free elections, does not guarantee that the legislative process maintains the characteristics identified in the Moscow Document. First of all, the parliament, as an institution, should have sufficient autonomy from the executive. Parliamentary autonomy has two aspects, one of which is political. If an absolute majority of seats in parliament belongs to the party associated with the head of state, parliamentary autonomy declines. The other aspect of parliamentary autonomy relates to the parliament’s interior structure and its institutional role in relation to the executive. Even if a majority of seats belongs to one party, the parliamentary opposition should still be able to maintain its influence on the legislative process. This can be achieved through application of the following mechanisms: effective participation of the opposition in legislative agenda planning via representation on parliament’s collective governing bodies; creation of an effective system of special parliamentary committees and commissions to carry out preliminary work on draft laws; and creation of opportunities for the involvement of all members of parliament, regardless of their allegiance, in parliamentary oversight and control of the executive.

Transparency in debating and voting on draft laws acquires special importance in a developed democratic environment. Regardless of the party composition of parliament, each faction should have sufficient opportunities to express its positions in parliamentary sessions and to publish and distribute its views broadly. Moreover, parliamentary autonomy means that parliaments and individual parliamentarians should have considerable resources that are free from the control of the executive. These resources should include financial assets (adequate salaries for parliamentarians, the opportunity to hire personnel and issue invitations to experts) and privileges, including immunity, as long as limited to legitimate parliamentary work.

The nature of a mature democracy cannot be reduced to the institutional characteristics of government bodies. The Copenhagen and Moscow Documents attach special importance to creating a favourable social environment for the functioning and development of democracy. The rule of law is one of

16 Moscow Document, cited above (Note 5), section 18.1.

the elements of this democratic environment. The Moscow Document includes the following provision:

The participating States recall their commitment to the rule of law in the Document of the Copenhagen Meeting and affirm their dedication to supporting and advancing those principles of justice which form the basis of the rule of law. In particular, they again reaffirm that democracy is an inherent element in the rule of law and that pluralism is important in regard to political organizations.¹⁷

In fact, it was the Copenhagen Document that connected the concept of the rule of law to other major international commitments on democracy and human rights. Until then, the concept had been confined to legal and political theory and used exclusively by lawyers and political scientists. The Copenhagen and Moscow Documents crystallized an evolutionary transition in international law by highlighting the links between democracy and the rule of law. It is well known that recognition of the rule of law is not confined to democracies, but is also widespread in the rhetoric of authoritarian regimes; hence the erroneous argument that the rule of law is in itself conducive to democratic development. Indeed, democracy lacks meaning if laws that embody the will of the people as expressed in elections do not work because of the imperfections of the enforcement system. Yet in terms of the OSCE's fundamental commitments, it is also vital that the rule of law includes democracy as an inherent element, because mere formal state "legalism" cannot provide for the expression of the will of the people.

The recognition of fair and free elections is not the only aspect of democracy enshrined in the Copenhagen and Moscow Documents. The importance of this standard is compelling, yet sustainable democratic development requires much more. If democracy starts with elections, without further steps, such as the improvement of parliamentarianism and the consolidation of a constitutional state, it is doomed to stagnation. The Copenhagen and Moscow Documents provide for definite criteria that allow for assessment of the quality of democracy via a set of definitive and concrete criteria. These are not merely theoretical, but practical. Moreover, they are expressed in the form of commitments that have been willingly assumed by the participating States. Thus, the Copenhagen and Moscow Documents can be regarded as a comprehensive roadmap to democratic development.

17 Ibid., section 18.

Conclusion

The significance of the Copenhagen and Moscow Documents for contemporary democratic theory and practice consists in their formulation of a systematic vision of democracy as a developing political reality, and their establishment of clear criteria for mapping the political development of individual countries. Free and fair elections form the core of democracy as a system. No political development, even if it furthers the consolidation of political institutions and stability, can be regarded as a path to democracy without such elections.

The second key element is political pluralism. On the one hand, it is an aspect of free and fair elections; on the other hand, it has its own significance as a set of institutions and practices that shape fundamental aspects of democracy, including political responsibility and the accountability of the executive, free competition in the political marketplace, and alternation in power. Therefore, free and fair elections, if combined with political pluralism, serve as a key measure for distinguishing democratic and authoritarian regimes. Yet the core of a system is not equivalent to the system itself. A developed democracy includes many other elements, such as mature parliamentarianism and the rule of law.

Democracy is distinguished by the dynamism of its various elements and the need for efforts to adapt and reproduce them under changing social conditions. Efforts to promote democracy must include practical benchmarks, and the Copenhagen and Moscow Documents serve as such. Their legacy is dynamic and valuable not only as a tool for the assessment of political processes, but also as a set of guidelines for lasting democratic practices.

Rule of Law and Judicial Independence in Eastern Europe, the South Caucasus, and Central Asia

Introduction

Adhering to the principle of judicial independence is at the forefront of the OSCE's rule-of-law-related commitments. The participating States reaffirmed it in the Helsinki Ministerial Council Decision on Further Strengthening the Rule of Law in the OSCE Area,¹ and it has repeatedly been the focus of human dimension meetings, most recently the Human Dimension Seminar on Strengthening Judicial Independence and Public Access to Justice in May 2010. In earlier documents, the participating States acknowledged the significance of judicial independence for the full expression of the inherent dignity and rights of all human beings.² They committed themselves to respecting the related international standards, and ensuring that the independence of the judiciary is guaranteed by constitution or law and is respected in practice, paying particular attention to the Basic Principles on the Independence of the Judiciary.³ Yet despite all these commitments and constitutional principles, the reality as regards judicial independence is far from satisfactory. Participating States in Eastern Europe, the South Caucasus, and Central Asia declare their support for judicial independence, but do not guarantee it in every regard. There are many legal and practical examples of insufficient respect for these principles.

The states of these regions do not need general advice expressed in constitutional terms. They need practical recommendations of what specifically should be done in order to guarantee judicial independence, and how this principle translates into everyday practice in terms of the separation of powers, the composition and working procedures of relevant institutions, the position of judge in a democratic state, rules on appointments, dismissals, removals, training, and so on. This advice should be tailor-made to the specific situation in those participating States, and should take into account the experiences of various other countries. Key here are practices in states whose

Note: The views expressed in this article do not necessarily reflect those of ODIHR.

- 1 Cf. Decision No. 7/08, Further Strengthening the Rule of Law in the OSCE Area, MC.DEC/7/08 of 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, pp. 20-22, here: p. 21, para. 4.
- 2 Cf. Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe, Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 439-463, here: p. 442, para. 5.12.
- 3 Cf. Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991, in: *ibid.*, pp. 605-629, here: p. 613, para. 19.

efforts at transformation have succeeded, as their experience may provide an insight into the problems that typically arise for judicial systems in the process of transformation. It is to be hoped that recommendations of this kind may help participating States in these regions to gradually reform their justice systems, so that their respect for OSCE commitments in this area is no longer merely declaratory. A recent instrument adopted at an expert conference jointly hosted by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) and the Max Planck Institute for Comparative Public Law and International Law (MPI), the Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia, has great potential in this respect.⁴

The Current State of Rule of Law and Judicial Independence in Eastern Europe, the South Caucasus, and Central Asia

The OSCE participating States in Eastern Europe, the South Caucasus, and Central Asia are in a peculiar situation as regards guarantees of rule of law and judicial independence. On the surface, their constitutional laws largely meet international standards. Their constitutions were written with the participation of international organizations and were subject to review by bodies such as the Venice Commission of the Council of Europe (officially known as the European Commission for Democracy through Law). Furthermore, they are often framed to provide at least the appearance of respect for the standards the states have signed up to in the international arena.

However, legal and judicial practice in those states usually differs from the constitutional provisions significantly, for the following reasons:

- *Constitutional provisions typically leave room for interpretation.* This provides an opportunity for the other branches of government to shift the balance of power in their favour and to increase their control over the judiciary. In a system where the executive has the most important role in government, provisions granting certain powers over the judiciary to the executive authorities (or establishing the head of state as guardian of the constitution) are habitually interpreted as empowering state presidents or government authorities to control the judiciary.
- *The constitutional tradition in the countries of these regions is comparatively young.* In Western democracies, even if certain aspects of the

4 OSCE Office for Democratic Institutions and Human Rights/Max Planck Minerva Research Group on Judicial Independence, *Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia*, at: <http://www.osce.org/odihr/73487>. The meeting report, including the adopted recommendations, can be found in: OSCE/ODIHR, *Judicial Independence in Eastern Europe, South Caucasus and Central Asia: Challenges, Reforms and Way Forward*, Expert meeting in Kyiv, 23-25 June 2010, at: <http://www.osce.org/odihr/71178>.

behaviour of state organs and institutions are not regulated, they are influenced by the constitutional tradition that translates the principles of separation of powers and checks and balances into practice. For example, there might be no regulation stipulating that the government should not express any views on ongoing court proceedings. However, according to constitutional tradition, it is obvious that representatives of the executive should not make any such statements, as this may violate the principle of separation of powers and judicial independence. Constitutional tradition is the result of a long-term process of shaping behaviours and cannot be created all at once. In countries where the constitutional tradition is comparatively young, there is a greater need to specify the proper behaviour of state organs.

- *Judicial independence is not rooted in the legal tradition and in how judges see themselves.* Even if a state enshrines the principle of judicial independence in its constitution and laws, regulation alone cannot suffice to establish a truly independent judiciary. The constitutional principles of Western democracies are based on a longstanding tradition and practice of judicial independence, inspired by philosophical theories developed far earlier than the constitutions themselves. In most countries in Eastern Europe, the South Caucasus, and Central Asia, the independence of the judiciary is still at one stage of development or another. Much of the legal culture of these countries is a legacy of the Soviet legal tradition with its doctrine of the “unity of state power” and an instrumental approach that “treated law as simply one of a number of instruments of rule, and not even as the dominant one”.⁵ In some of these countries, the judiciary was able to retain a certain level of independence even during the communist period,⁶ especially if judges’ decisions did not have any direct political relevance. In others, however, it was totally subservient to the executive. Judges in the region regarded themselves as public officials serving the respective government or ruling party – and frequently still do.⁷

Countries in Eastern Europe, the South Caucasus, and Central Asia display differing degrees of democratic transformation. Those that are members of

5 Peter H. Solomon/Todd S. Foglesong, *Court and Transition in Russia: The Challenge of Judicial Reform*, Boulder, Co., 2000, p. 4. For more on “instrumentalism”, see Kathryn Hendley, Are Russian Judges Still Soviet? In: *Post-Soviet Affairs* 4/2007, p. 240.

6 For an example, see Mark F. Brzezinski, The Emergence of Judicial Review in Eastern Europe: The Case of Poland, in: *The American Journal of Comparative Law* 2/1993, pp. 153-200. See also Maria Stanowska/Adam Strzembosz, *Sędziowie warszawscy w czasie próby 1981-1988* [Trying Times for Warsaw Judges 1981-1988], Warsaw 2005. This publication documents the varying approaches taken by judges who had to decide on politically relevant cases in difficult times. Examples given by the authors show that many judges tried to be independent in their adjudication, despite political pressure.

7 Cf. Taavi Annus/Margit Tavits, Judicial Behavior After a Change of Regime: The Effects of Judge and Defendant Characteristics, in: *Law and Society Review* 4/2004, pp. 711-736.

the Council of Europe are far more advanced in implementing the rule of law and judicial independence. To a certain extent, this is the result of jurisprudence of the European Court of Human Rights concerning Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and resulting reforms.⁸ The states of Central Asia, in contrast, have retained certain authoritarian features, with governments keeping and sometimes even increasing their control of the judiciary.⁹ Rule of law and judicial independence are features of a democratic state that cannot be achieved all at once. They are rather the fruits of a process by which states undertake steps aiming to increase the level of protection of those constitutional principles. In many post-communist states, this process started as early as 1989. Even in countries such as Poland, the Czech Republic, and Hungary, after almost 22 years of democratic transformation and a long process of European Union accession, there are still problematic issues that need to be addressed.¹⁰ Compared with what is left to do in other post-communist countries, however, these are matters of fine-tuning. These countries can therefore provide lessons learned on how to build judicial systems based on the rule of law and judicial independence in post-communist states.

Debates surrounding the process of transformation in post-communist states indicate that the rule of law and judicial independence are not achieved merely by enshrining general principles in constitutions, although it is important that the legal framework does include such principles as guiding values. Detailed regulations and established practices concerning judicial independence are equally important. These include rules and procedures for the administration of the judiciary and court management; methods of appointing judges, their removal from office, the terms of their training, and the evaluation of their professional performance, as well as rules and procedures regarding discipline, ethical standards, remuneration, and so on. Research into the state of judicial independence in the OSCE region indicates that the devil lies in these details. Whereas most countries formally proclaim the independence of the judiciary in their constitutions, other laws, by-laws, regulations, and established practices offer many avenues for the other branches of government to control and influence the judiciary. For example, while the constitution may entrust the power to appoint judges to judicial councils, in practice, “unwanted” candidates may be eliminated as a result of non-transparent

8 Related reforms have concerned matters such as the status of courts and judges, the length of proceedings, guarantees of impartiality, equality of arms, and effective criminal defence.

9 For an example, see Leonid Golovko, Prospects of Establishing Independent Judiciary in the Republic of Uzbekistan, in: *Compilation of Analytical Papers on Human Rights and Criminal Justice System of the Republic of Uzbekistan*, Legal Policy Research Centre, Almaty 2009, p. 4.

10 Several articles on transitional processes in new member states of the EU are contained in: Anja Seibert-Fohr (ed.), *Judicial Independence in Transition*, Berlin (forthcoming).

security screenings made by the security services or the police.¹¹ Another example concerns the allocation of cases to judges. If this is done randomly, the risk of political influence at this stage is small. But in some systems, the allocation of cases is performed by court presidents, who are appointed by the executive branch and are often susceptible to all kinds of influence.

One more example concerns the position of national schools of judiciary. When these are controlled by the executive, they may be used to influence the judicial branch, as they often have an important impact on the selection of judicial candidates and continuous judicial education. Judges may, for instance, not be taught subjects that could encourage them to criticize the executive, including courses on state responsibility. Finally, judges are subject to internal dependency, as their income and career paths may “depend on how their superiors regard their work, including how they decide particular cases”.¹² Thus judicial independence consists of numerous “small” principles and practices, which have to be implemented in each country. Any reforms seeking to bring about judicial independence should therefore take due respect of such sub-elements and be implemented gradually.

Efforts to Strengthen the Rule of Law and Judicial Independence

Assistance to countries in Eastern Europe, the South Caucasus, and Central Asia aimed at increasing respect for the rule of law and judicial independence follows two main paths or a combination thereof: *generally*, via the provision of standards, and *specifically*, by assessing the state of affairs in concerned judiciaries.

Standard Setting and Policy Advice in the Field of Judicial Independence

In contrast to general principles on judicial independence, guidance on the details that are crucial for the realization of judicial independence is rare, and there is no universal agreement about what it should entail.¹³ In November 2010, the Council of Europe adopted a revised and updated “Recommendation (2010)12 on judges: independence, efficiency and responsibilities”. This document takes into consideration the legal traditions and practices in all the Council of Europe’s highly diverse member states. Some of its content protects the *status quo* in particular countries. As argued above, states with

11 Cf. OSCE/ODIHR, *Judicial Independence in Eastern Europe, South Caucasus and Central Asia*, cited above (Note 4), p.13.

12 Peter Solomon, The Accountability of Judges in Post-communist States: From Bureaucratic to Professional Accountability, in: Seibert-Fohr (ed.), cited above (Note 10); see also: OSCE/ODIHR, *Judicial Independence in Eastern Europe, South Caucasus and Central Asia*, cited above (Note 4), p.14.

13 Examples include the European Charter on the Statute for Judges (1997), the Magna Carta of Judges (2010), and several specific opinions issued by the Consultative Council of European Judges.

younger constitutional traditions would profit from detailed regulations and safeguards in areas where such measures may not be necessary in more established democracies. Even though certain measures are needed to strengthen judicial independence in some countries, it would be unreasonable to expect member states to agree to adopt specific principles if they run counter to the needs of their own judiciaries. States in Eastern Europe, the South Caucasus, and Central Asia turn to international organizations and bilateral donors for help in their efforts to strengthen the independence of their judiciaries. Unfortunately, the assistance they receive all too often results in their copying aspects of other countries' judicial systems that are foreign to their own legal traditions and irresponsible to their specific needs.

Assessing Judiciaries and their Independence

The assessment of judiciaries is often merely one part of a bigger picture provided in country reports issued by institutions and international organizations such as the Council of Europe, the United Nations, the World Bank, and the European Bank for Reconstruction and Development, as well as by the European Union, the US Department of State, and others. Non-governmental "human-rights watchdogs" identify the shortcomings of justice systems in their reports from trials and on other aspects of human rights compliance. Finally, there are initiatives that come close to measuring judicial independence as such: They may be regional or global, undertaken by governmental or non-governmental organizations, and report in detail on the state of affairs in specific countries with regard to the following concepts or phenomena: rule of law,¹⁴ judicial independence,¹⁵ judicial accountability, integrity, and transparency,¹⁶ corruption in the judiciary,¹⁷ and capacity and performance of the

14 See, for example, Mark David Agrast/Juan Carlos Botero/Alejandro Ponce (for The World Justice Project), *Rule of Law Index 2010*, Washington, DC, 2010, at: <http://www.worldjusticeproject.org/rule-of-law-index>. See also the joint "Justice Indicators" project of the Altus Global Alliance, www.altus.org, which focuses more on criminal justice.

15 See, for example, American Bar Association Rule of Law Initiative, *Judicial Reform Index*, at: http://apps.americanbar.org/rol/publications/judicial_reform_index.shtml; and Linn Hammergren (for Transparency International), *Diagnosing judicial performance: toward a tool to help guide judicial reform programs*, working draft, particularly pp. 21-22, at: <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/hammergrenJudicialPerf.pdf>. See also *ibid.*, Annex V, (for: USAID/ENI), Checklist for Eastern Europe and the Former Soviet Union, sections 1 to 3; Keith Henderson/Violaine Autheman (for International Foundation for Electoral Systems), *Global Best Practices: A model state of the judiciary report. A strategic tool for promoting, monitoring and reporting on judicial integrity reforms*, 2004 (revised), at: <http://www.ifes.org/Content/Publications/White-Papers/2004/Global-Best-Practices-A-Model-State-of-the-Judiciary-Report-A-Strategic-Tool-for-Promoting-Monit.aspx>.

16 See, for example, Hammergren, cited above (Note 15), pp. 19-20 and 22.

17 See, for example, Transparency International, *Combating Corruption in judicial systems. Advocacy Toolkit*, Berlin [no date], at: http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/Judiciary_Advocacy_ToolKit.pdf.

judiciary.¹⁸ However, the definitions of these notions are not clear-cut, while at the same time they are inherently interrelated, or indeed overlapping. As a result, even if these initiatives address judicial independence specifically, they generally place it in a broader reference base for monitoring,¹⁹ and they often lack more specific observations concerning, for example, institutional guarantees of judicial independence. This is even more evident in the case of assessments that focus on the domestic legal conditions for doing business, which tend to stress issues such as the enforcement of contracts.²⁰

OSCE Activities Related to Judicial Independence

Discussions at the OSCE Human Dimension Seminar on Strengthening Judicial Independence and Public Access to Justice in May 2010 and the 2009 Human Dimension Seminar on Strengthening the Rule of Law in the OSCE Area concluded that further in-depth examination and discussion was needed in these areas.²¹ Recommendations made at the seminars called on the OSCE, its institutions, and field operations to continue facilitating exchanges of practices.²² In accordance with their respective mandates, OSCE field operations conduct a plethora of activities that promote judicial independence in their host countries (through trial monitoring, legislative and institutional justice-reform assistance, judicial-training assistance, etc.). Significantly, some field operations perform what can be called “justice (system/sector) monitoring”. This includes looking into judicial administrations, judicial councils, the hiring and firing of judges, court relations with the media, and so on, and suggesting appropriate policy reform measures.

ODIHR began co-operating with the Max Planck Institute for Comparative Public Law and International Law in 2009 to further develop its capacity to assist participating States in strengthening judicial independence, and to

18 See, for example, various works by the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe; and Open Society Institute, *Monitoring the EU accession process: judicial capacity*, [no place] 2002, at http://www.soros.org/resources/articles_publications/publications/judcap_20030101.

19 Besides the examples already quoted, see Martina Huber (for the Netherlands Institute of International Relations “Clingendael”), *Monitoring the rule of law. Consolidated framework and report*, The Hague 2002, at: http://www.clingendael.nl/publications/2002/20020700_cru_paper_huber.pdf, pp. 10ff, and Bertelsmann Stiftung, *Transformation Index*, <http://www.bertelsmann-transformation-index.de/en/bti> (see criterion “Rule of Law”, which addresses the sub-issues “Separation of powers” and “Independent judiciary”).

20 See, for example, the World Bank Doing Business database, at: www.doingbusiness.org/data/exploretopics/enforcing-contracts.

21 In response to OSCE Ministerial Council Decision No. 17/05 on Strengthening the Effectiveness of the OSCE, ODIHR called for supplementary commitments on the separation of powers including judicial independence; see OSCE, ODIHR, *Common Responsibility, Commitments and Implementation*, Warsaw, 10 November 2006, paras 83-85.

22 Cf. *OSCE Human Dimension Seminar on Strengthening Judicial Independence and Public Access to Justice*, 17-19 May 2010, Consolidated Summary, pp. 4, 7, at: <http://www.osce.org/odihr/70836>; *OSCE Human Dimension Seminar on Strengthening the Rule of Law in the OSCE Area*, pp. 4-6, at: <http://www.osce.org/odihr/38480>.

assess the need for such assistance in the OSCE region. In-depth research and consultations involving independent experts from academia and judicial practice as well as the participating States led to adoption of the “Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia” by experts at a regional meeting in June 2010.²³ These expert recommendations are a list of practical policy suggestions drawing upon academic insight and the experience of former judges and court chairs from the concerned regions. They are unique because they take into account the various laws, practices, and problems that exist in the regions concerned, together with the experiences and lessons learned of countries that have already undertaken the long process of transforming their judiciaries. In addition, the document is fairly balanced. It does not favour judicial independence as an absolute value in itself, as is sometimes put forward by judicial interest groups, but takes into consideration the interests and needs of government in a democratic state, particularly the need for all power to be democratically legitimized. The *Kyiv Recommendations* specify in concrete terms what states could do in order to secure proper respect for judicial independence. Considering the proposed measures may assist them in identifying specific reforms that could be undertaken in order to meet high standards of judicial independence.

Summary of the Kyiv Recommendations

The *Kyiv Recommendations* approach the overall topic of judicial independence from three angles: Part I – *Judicial Administration* – focuses on judicial councils, qualification collegia, and self-governing bodies, as well as the role of court chairs; part II – *Judicial Selection and Training* – looks at access to the profession of judge, the training and education of judges, and the recruitment process; and finally part III – *Accountability of Judges and Judicial Independence in Adjudication* – addresses questions related to discipline, professional evaluation, transparency, and independence within the judicial hierarchy.²⁴

The recommendations related to judicial administration (part I) reflect the fine line between governmental control and democratic legitimization of the judiciary. While governmental control of the judiciary via administrative means should be avoided, it is necessary to ensure that the courts have a minimum of democratic legitimacy by involving government and parliament of-

23 OSCE/ODIHR, *Judicial Independence in Eastern Europe, South Caucasus and Central Asia*, cited above (Note 4).

24 Discussions at the 2010 Human Dimension Seminar on Strengthening Judicial Independence and Public Access to Justice, as well as the 2009 Human Dimension Seminar on Strengthening the Rule of Law in the OSCE Area confirmed that these are crucial aspects of judicial independence that deserve more in-depth examination and further discussion. Consolidated summaries are available at: <http://www.osce.org/odihr/70836> and <http://www.osce.org/odihr/38480>.

ficials in the judicial administration. The policy suggestions therefore aim, on the one hand, to prevent the government or presidential administration from exercising an excessively strong influence over matters of judicial administration; and, on the other, to avoid the concentration of powers in the hands of a single corporate body. Consequently, the recommendations address how competencies should be divided among various bodies or commissions with different compositions, commensurate with the degree of desired or acceptable government and other non-judicial involvement.²⁵

The role of court chairs deserves considerable attention, especially in the post-Soviet area. In some participating States, they have the power to supervise the activities of judges within a given court or even to control the content of their decisions. This may be the result of explicit legal provisions or stem implicitly from certain practices.²⁶ In many countries, however, the law stipulates that they should have only a managing role *vis-à-vis* court support staff. The recommendations related to the role of court chairs therefore attempt to reduce their *de jure* and *de facto* competencies. This should protect judges from court chairs trying to bring them into line with government or business interests. Finally, the recommendations suggest that bonuses and privileges should be abolished, because they risk making judges dependent on court chairs and/or the authorities that grant these benefits.²⁷

The *Kyiv Recommendations* related to the theme of judicial selection and training (part II)²⁸ call on governments in the regions in question to ensure diversity of access to the judicial profession, and to attract individuals from other legal professions as well as minorities. Some of the policy suggestions address the quality and independence of legal education and judges' training. In order to facilitate selection according to merit, the recommendations also suggest the use of clear selection criteria and transparent procedures. Finally, the document recommends limiting the discretion of heads of states and executives to appoint candidates.

The recommendations in part III seek to find a balance between the need to hold judges accountable under the law and the need for judicial independence. The latter is particularly crucial in the process of adjudication, i.e. the core of the judge's profession.²⁹ In other words, procedures for disciplining judges should not be used to influence their decision making.³⁰ Clearly judges are not above the law and must be held accountable when they abuse

25 Cf. *Kyiv Recommendations*, cited above (Note 4), paras 2-5, 7-9.

26 Cf., for example, Olga Schwartz/Elga Sykiainen, Judicial Independence in the Russian Federation, and Alexander Vashkevich, Judicial Independence in the Republic of Belarus, both in: Seibert-Fohr (ed.), cited above (Note 10).

27 Cf. *Kyiv Recommendations*, cited above (Note 4), paras 11-14.

28 Cf. *ibid.*, paras 17-24.

29 Cf. Venice Commission, *Opinion on the law on disciplinary responsibility and disciplinary prosecution of judges of common courts of Georgia adopted by the Venice Commission at its 70th Plenary Session*, Venice, March 2007, para. 18.

30 Cf. ODIHR, *Judicial Independence in Eastern Europe, South Caucasus and Central Asia* cited above (Note 4), p. 13.

or distort it, but their legitimate interpretation and application of the law in individual cases should not be punished. The document also stresses that the professional evaluation of judges should not harm the independence of their adjudication.³¹ This is often the case when references to indicators of adjudication or low justice performances appear to reward judges for convictions and decisions that are not appealed or not overturned upon appeal.³² Such practices run the risk of encouraging judges to consult with higher-instance judges prior to taking decisions in order to ensure that their judgments are not overturned, or to side with the prosecution authorities rather than adjudicating impartially.³³ None of this is acceptable for an independent and impartial judge.

The recommendations also refer to transparency as a means of making judges accountable to society without subjecting them to the control of the government.³⁴ Transparency can also contribute to enhancing public trust in the judiciary and its independence. Finally, the *Kyiv Recommendations* also suggest that the issuing of directives, explanations, or resolutions by high courts should be discouraged, or should not be binding on lower court judges. Although exceptions may be necessary in some circumstances, as a rule, legislative functions should be left to elected parliaments.³⁵

Kyiv Recommendations – Becoming a Primary Instrument for Promoting Judicial Independence

As has been pointed out elsewhere in this paper, judicial independence is one of those areas that can still be considered to lack sufficiently detailed, internationally recognized rules, especially in terms of institutional safeguards for independence. When states identify a need for guidelines in areas that require special knowledge and understanding, such as judicial independence, they sometimes resort to soft-law approaches: “Some of the forms of ‘soft law’ [...] are potentially law-making in much the same way that multilateral treaties are potentially law-making. [...] In appropriate cases such instruments

31 Cf. *Kyiv Recommendations*, cited above (Note 4), paras 25-31, 34.

32 See, for example, *Constitutional Law of the Republic of Kazakhstan on the Judicial System and Status of Judges*, Article 16 para. 9-1, and Article 22-1 para. 7-1, at: <http://www.legislationline.org/documents/action/popup/id/4991>.

33 Cf., for example, Schwartz/Sykiainen and Vashkevich, cited above (Note 26).

34 On the accountability of judges to society, see Solomon, cited above (Note 12), p. 15.

35 “The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary [...] has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever. It may truly be said to have neither force nor will, but merely judgment [...]” Alexander Hamilton, in: *The Federalist*, No. 78, June 14, 1788, p. 514, citation after: Amy J. Weisman, Separation of Powers in Post-Communist Government: A Constitutional Case Study of the Russian Federation, in: *American University International Law Review* 4/1995, p. 1367 (special formatting omitted).

may be evidence of existing law, or formative of the *opinio juris* or State practice that generates new customary law. Widespread acceptance of soft law instruments will tend to legitimize conduct, and make the legality of opposing positions harder to sustain. They may additionally acquire binding legal character as elements of a treaty-based regulatory regime, or constitute a ‘subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions’, or influence the development and application of treaties or general international law.’³⁶ If the participating States were to endorse the document, thereby turning it explicitly into soft law, this would confirm their commitment to the principle of judicial independence and increase the profile of the recommendations.³⁷

ODIHR should therefore place special emphasis on raising awareness of the *Kyiv Recommendations* within participating States. Stakeholders in this case would include domestic actors, such as judges, judicial associations, judicial councils, governmental authorities involved in judicial administration, schools for judges, relevant NGOs, and the media. One of the best methods of securing awareness of the *Kyiv Recommendations* is to translate them into local languages.³⁸ The document should be a point of reference for any judicial reform affecting judicial independence. It could also be referred to by stakeholders in situations where the rule of law and judicial independence are threatened. It would be useful for participating States themselves to examine the relevance of each of the recommendations in the context of their judiciaries. By supplying examples of practices that are in line with the recommendations, they could contribute to drawing up a “register of good practices”.

The *Kyiv Recommendations* should also be promoted among other international organizations that possess bodies that deal with the judiciary, but have not created their own tools in this specific field. These include, in particular, the European Commission for the Efficiency of Justice (CEPEJ) and the Venice Commission. The latter has already referred to the recommendations on several occasions.³⁹ One might also consider the potential impact of

36 Alan Boyle, Soft law in international law-making, in: Malcolm Evans (ed.), *International Law*, Oxford 2006, pp. 142-143 (footnotes omitted).

37 Compare the example of the UN-promoted Guiding Principles on Internal Displacement in, for example: Inter-American Commission on Human Rights, *Third Report on the Human Rights Situation in Colombia*, 26 February 1999, paras 8-10.

38 This is already being undertaken by ODIHR and a number of OSCE field operations, which have co-ordinated the translation of the *Kyiv Recommendations* into eight languages (Albanian, Armenian, Azeri, Bosnian, Georgian, Romanian, Russian, Ukrainian). All translations are available at: <http://www.osce.org/odihr/66395>. Translation into Polish and Croatian/Serbian is under way.

39 See, e.g., OSCE Office for Democratic Institutions and Human Rights/European Commission for Democracy through Law (Venice Commission), *Joint Opinion on the Constitutional Law on the Judicial System and the Status of Judges of Kazakhstan*, adopted on 17-18 June 2011, CDL-AD(2011)012, at: [http://www.venice.coe.int/docs/2011/CDL-AD\(2011\)012-e.pdf](http://www.venice.coe.int/docs/2011/CDL-AD(2011)012-e.pdf). This opinion was requested by the Chairman of the Supreme Court of Kazakhstan following an event on judicial independence, which was co-sponsored by the

the *Kyiv Recommendations* on the future jurisprudence of the European Court of Human Rights, especially in setting precedent judgments on the basis of Article 6 of the Convention. In this way, the soft-law character of the *Kyiv Recommendations* would move closer to becoming hard-law, at least with respect to certain principles.

Another idea is to consider the *Kyiv Recommendations* as an assessment tool for the use of OSCE field operations, as well as domestic and international NGOs, that prepare reports to international bodies or directly address situations where the independence of the judiciary is at stake. International monitoring bodies, which have limited access to information about practices in concerned countries, tend to make rather general observations and recommendations (see above). The *Kyiv Recommendations* differ from all the other tools and studies mentioned above by dint of their focus *on* and *within* the topic of judicial independence. They are not an assessment tool *strictu sensu*, as there is no measurability component included in them. However, they have the potential to be transformed into one. This would require further standardization of certain recommendations and the development of a methodology for assessment. In this regard, their area of applicability may even become wider than the countries of Eastern Europe, the South Caucasus, and Central Asia. If translated into an assessment tool, the recommendations could become a premier instrument for strengthening the rule of law and judicial independence in the OSCE region. A tool of this kind would be useful in assessing the degree of independence of the judiciary and could even include a benchmark mechanism. It should be publicly accessible, and any NGO active in a given state should be able to use it and then present results of its research to relevant national authorities and international bodies.

The *Kyiv Recommendations* concentrated on three major groups of topics: justice administration; judicial selection and training; and accountability of judges and independence in adjudication. They were not exhaustive. Additional topics could be covered in the process of preparing a second (updated and improved) edition, e.g. the influence of other members of legal profession on judicial independence – particularly the prosecution service – and the relationship between the judiciary and the media. “Kyiv Recommendations” may come to stand for a continuous process, as the recommendations themselves may be updated, improved, and expanded in various directions. The process of updating could be based around expert meetings held regularly every two or three years (as is already the case with the OSCE ODIHR Guidelines on the Freedom of Assembly,⁴⁰ which are revised to reflect new cases and developments in the field).

OSCE Centre in Astana, and forwarded for consideration to the legislative working group that is preparing amendments to the relevant law.

40 See ODIHR/Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, second edition, Warsaw 2010, <http://www.osce.org/odihr/73405>.

Conclusion

Judicial independence in the OSCE participating States of Eastern Europe, the South Caucasus, and Central Asia is at various stages of development. Although it is enshrined in constitutional documents, guaranteeing it requires a series of reforms – both to specific judiciary-related laws and in practice. The role of the international community is to support reforms in this area. However, this should not stop with suggestions regarding the wording of constitutional principles. The international community should encourage participating States to recognize that judicial independence is shaped by day-to-day practice and continual reforms. It should also provide guidance based on international expertise and the experience of Western democracies and states that have successfully undergone transformation. With the help of such guidance, expressed in specific and tailor-made terms, it might be easier for participating States to undertake reforms to strengthen judicial independence.

The *Kyiv Recommendations* serve just this purpose. Their prospects depend very much upon how they are put into practice by the participating States and efforts by the international community to promote their implementation (including the OSCE itself). If the initial phase of promoting the *Kyiv Recommendations* succeeds, they have a chance to become a unique international instrument with respect to promoting the rule of law and judicial independence.

Roma and Sinti: Status and Outlook

Created in 1994, ODIHR's Contact Point for Roma and Sinti Issues (CPRSI) was the first office ever established by an intergovernmental organization specifically to address Roma and Sinti issues. Over the last 18 years, the CPRSI has functioned as part of an organization mandated to deal with human rights issues like those faced by Roma and Sinti as part of a broader approach to security that also includes politico-military and economic and environmental dimensions. What was originally the CSCE and later became the OSCE has, therefore, provided a unique framework in which to raise human rights issues regarding Roma and Sinti.

This piece is not intended as a systematic account of the Contact Point's activities and accomplishments. Instead, the first half covers some of the highlights of these efforts, from the establishment of the CPRSI to the creation of the Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area, while the second half focuses on current challenges and trends regarding the integration of Roma and Sinti communities and examines the road ahead over the next decade.

Considering the slow pace with which the integration of these communities has proceeded and the many setbacks that have beset it, this piece concludes that while some progress has been made, much more needs to be done to ensure positive outcomes over the long term. The Contact Point will continue to apply its expertise, playing an essential role in helping OSCE participating States to fulfil their commitments to the integration of Roma and Sinti communities into mainstream cultural, economic, and political life in their respective societies.

Integrating Roma and Sinti Issues into the Human Dimension of the OSCE: The Historical Role of the Contact Point for Roma and Sinti Issues

At the Copenhagen Meeting in 1990, a year before ODIHR was established, the CSCE explicitly recognized for the first time the particular challenges confronting Roma ("Gypsies").¹ Participating States declared that they would

Note: The views expressed in this article do not necessarily reflect those of ODIHR. The author would like to thank Mirjam Karoly, Anita Danko, and Dan Doghi for contributing to, reviewing, and commenting on this paper.

- 1 See Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, section 40, 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. 459, also available at: <http://www.osce.org/odihr/elections/14304>.

implement legislative and other political measures to protect these minority communities against racial threats and violence and other forms of discrimination.² The fall of communism provided a historic opening to respond to Roma and Sinti issues, many of which came in the form of threats to these communities arising from the nature of the transition period in a number of Central and South-eastern European countries. This period was marked by incidents of mob or community violence against Roma and Sinti and a rapid decline in their economic and social conditions, leading to a significant migration to Western Europe by Roma and Sinti and requests for asylum.³

The period from 1990 to 1994 was crucial for bringing Roma and Sinti concerns to the attention of governments and the international community. The efforts of a number of academics and Roma and Sinti activists, with the support of NGOs and reports on the situation by high-profile human rights organizations, made a major contribution to focusing attention on these conditions.⁴ As a result, participating States proved eager to commit themselves to improving the situation of Roma and Sinti, including at the CSCE Meeting of Experts on National Minorities in Geneva in 1991,⁵ and at the Fourth Follow-up Meeting in Helsinki in 1992.⁶

The role of the OSCE High Commissioner for National Minorities (HCNM) and, in particular, the contributions made by the first person to hold the post, Max van der Stoep, in raising awareness of Roma and Sinti among the international community deserve special attention here.⁷ At a very early stage of his mandate, in 1993, following a request from the CSCE Committee of Senior Officials, van der Stoep studied the problems faced by Roma to the extent that they were relevant to his mandate.⁸ Later that same year, he published the report "Roma (Gypsies) in the CSCE Region". While pointing out

2 Cf. *ibid.*, section 40.2.

3 In the early 1990s, Roma and Sinti were the targets of a number of attacks, including incidents of mob violence, in the Romanian village of Hadareni, which left three Roma men dead and led to the destruction of the homes and property of many others. Such outbursts of violence against Roma, coupled with the dire socio-economic conditions in which many Roma people live, have created a strong impetus to migrate westward. But many Roma and Sinti who sought asylum in the West faced similar threats, and violence against them has also resulted in deaths there. For more details see Nicolae Gheorghe/Andrzej Mirga, *Roma in the XXI Century*, Policy Paper, Project on Ethnic Relations, Princeton 1997.

4 During this period, a number of reports were published on Roma by human rights organizations such as Human Rights Watch, Project on Ethnic Relations, Minority Rights Group International, and Amnesty International.

5 See Report of the CSCE Meeting of Experts on National Minorities, Geneva, 19 July 1991, Chapter VI, in: Bloed (ed.), cited above (Note 1), pp. 593-604, here: pp. 600-601, also available at: <http://www.minelres.lv/osce/gene91e.htm>.

6 See CSCE Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, Decisions, Chapter VI: The Human Dimension, section 35, in: Bloed (ed.), cited above (Note 1), pp. 701-777, here: pp. 743-753, 749-750; also available at: <http://www.osce.org/mc/39530>.

7 The decision to establish a High Commissioner on National Minorities was taken at the CSCE Helsinki Meeting in December 1992. See *ibid.*, Decisions, Chapter II.

8 Cf. Marcia Rooker, *The International Supervision of Protection of Romany People in Europe*, Nijmegen 2002, p. 281.

the limits of his mandate with regard to addressing Roma issues, van der Stoep recommended that the situation of Roma should be considered “a standard topic for consideration at Review Conferences, Implementation Meetings and other relevant fora organized within the context of the Human Dimension”, and “that a point of contact for Roma issues be established within the ODIHR”.⁹

The idea of creating a contact point of this kind had already been debated within ODIHR, as well as among various civil-society organizations that ultimately played a major role in shaping it.¹⁰ Especially important in this process was the groundbreaking CSCE Human Dimension Seminar on Roma, which was held in Warsaw from 20 to 23 September 1994. This was the first such seminar ever to be devoted entirely to Roma and Sinti issues. The event was organized jointly by the CSCE and the Council of Europe,¹¹ with important contributions coming from NGOs in setting the agenda and aims of what would become the ODIHR Contact Point for Roma and Sinti Issues.¹²

The CSCE Budapest Summit, held on 5 and 6 December 1994, adopted the decision to establish the Contact Point, with the primary goal of assisting participating States in finding constructive solutions to the problems faced by the Roma.¹³ Interestingly, although the task was given to ODIHR, the office

9 *Roma (Gypsies) in the CSCE Region. Report of the High Commissioner on National Minorities*, Meeting of the Committee of Senior Officials, 21-23 September 1993, sections 5.3. (1) and (2), at: <http://www.osce.org/hcnm/36441>.

10 Roma civil-society organizations, such as the International Romani Union (IRU), the Roma National Congress (RNC), and the Project on Ethnic Relations (PER), were instrumental in lobbying for the establishment of a contact point for Roma and Sinti issues both at the OSCE Human Dimension Implementation Meeting in Warsaw and at the Summit of Heads of State or Government in Budapest in 1994.

11 In 1993, moreover, the Parliamentary Assembly of the Council of Europe released its own report on Roma, prepared by Josephine Verspaget. Following the recommendations included in this report, the Parliamentary Assembly of the Council of Europe decided to set up its own structure: the Specialist Group on Roma/Gypsies at the Council of Europe. The Specialist Group came into existence in 1995. For details see Parliamentary Assembly, Council of Europe, *Recommendation 1203 (1993) on Gypsies in Europe*, Parliamentary Assembly of the Council of Europe, 2 February 1993, at: <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/t93/EREC1203.htm>.

12 Cf. ODIHR, *Human Dimension Seminar on Roma in the CSCE Region*, 20-23 September 1994, available at: <http://www.osce.org/odihr/19704>. For further details of the HCNM's role in this process, see also: Organization for Security and Co-operation in Europe, High Commissioner on National Minorities, *Report on the situation of Roma and Sinti in the OSCE Area*, March 2000, at: <http://www.osce.org/hcnm/42063>.

13 “The participating States decide to appoint within the ODIHR a contact point for Roma and Sinti (Gypsies) issues. The ODIHR will be tasked to: act as a clearing house for exchange of information on Roma and Sinti (Gypsies) issues, including information on the implementation of commitments pertaining to Roma and Sinti (Gypsies); facilitate contacts on Roma and Sinti (Gypsies) issues between participating States, international organizations and institutions and NGOs; maintain and develop contacts on these issues between CSCE [OSCE] institutions and other international organizations and institutions.” Budapest Document 1994, Budapest, 6 December 1994, Budapest Decisions, Chapter VIII, section 23, in: Arie Bloed, *The Conference on Security and Co-operation in Europe. Basic Documents, 1993-1995*, The Hague 1997, pp. 145-189, here: pp. 153-189, p. 179.

was not provided with any additional funding or human resources to fulfil it.¹⁴

Over the next few years, until 1998, when the CPRSI was reinforced by the addition of an Adviser on Roma and Sinti Issues, the Contact Point played a part in raising awareness and acted as a clearing house for related issues both within what became the OSCE and among Roma and Sinti organizations, gathering, recording, and reporting information on the situation of Roma and Sinti in the participating States. The office was increasingly becoming an important centre for Roma and Sinti civil society, in terms of both facilitating communication with governmental representatives at Human Dimension meetings and acting as a catalyst for Roma and Sinti organizations' own efforts.¹⁵

As part of the OSCE, the CPRSI has been uniquely positioned to tackle "hard" security issues faced by Roma in crisis or post-crisis situations. Just such a challenge arose during the conflict in Bosnia and Herzegovina. A joint fact-finding mission was organized by the CPRSI and the Council of Europe Specialist Group on Roma, Gypsies, and Travellers¹⁶ in 1996, just after the conflict ended. The team produced a report providing accounts of the fate of the Roma community during the ethnic conflict, as well as a number of recommendations for moving forward.¹⁷ A similar joint effort, again in co-operation with the Council of Europe, documenting the fate of Roma, Ashkali, and Egyptian communities during the war in Kosovo was carried out in 1999, and was also followed by a report and recommendations.¹⁸

The ODIHR Contact Point, together with the Council of Europe's Specialist Group on Roma, Gypsies, and Travellers, also played a part in the Working Table on Democratization and Human Rights at the meeting of the

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- 14 Within the limits of existing resources, ODIHR appointed a staff member, Jacek Paliszewski, as co-ordinator of Roma Contact Point Activities. He was assisted by Paulina Rogowska and Elizabeth Winship. With the decision of the office to issue a CPRSI Newsletter, an additional staff member, Ilya Belkin, was designated to work as its editor. The newly established office started issuing its bi-monthly CPRSI Newsletter within the first six months, aiming, among other things, to provide information about Roma- and Sinti-related events, gather information about violations of the human rights of Roma and Sinti, and provide lists of reports, publications, and statements related to Roma. The first newsletter was issued in July 1995, and publication continued until the beginning of 1997.
- 15 The establishment and activities of the ODIHR CPRSI have been the subject of a number of academic studies. See, for example, Martin Kovats/Marcia Rooker, The emergence of European Roma policy, in: Will Guy (ed.), *Between the Past and Future. The Roma of Central and Eastern Europe*, Hatfield, Herts., 2001, pp. 93-117.
- 16 The Council of Europe Specialist Group was represented by Andrzej Mirga and Josephine Verspaget, and the CPRSI was represented by Jacek Paliszewski.
- 17 See *Fact-Finding Mission to Bosnia and Herzegovina on the Situation of the Roma/Gypsies (16-21 May 1996). Conclusions of the Mission and Recommendations*, at: http://www.coe.int/T/DG3/RomaTravellers/archive/documentation/fieldvisits/missionbih_en.asp.
- 18 Nicolae Gheorghe/Josephine Verspaget, *Report on the joint OSCE/ODIHR-Council of Europe Field mission on the situation of the Roma in Kosovo, 1999, 27 July-6 August 1999*, at: http://www.coe.int/T/DG3/RomaTravellers/archive/documentation/fieldvisits/missionkosovo99_en.asp.

Task Force on Human Rights and Minorities, within the scope of the Stability Pact for South-Eastern Europe in 1999. The outcome was a joint project with the Council of Europe under the Stability Pact, which was realized from 2001 to 2003, focusing on the advancement of the political rights of Roma and Sinti and funded by the EU, and with additional support from the United States.¹⁹

Such efforts by the CPRSI to tackle “hard” security issues continued, mainly through activities devoted to Roma in post-conflict situations carried out in co-operation with the OSCE field operations in the region, with the situation of the Roma, Ashkali, and Egyptian communities of Kosovo being a particular focus. The Contact Point was actively involved in addressing issues related to refugees, internally displaced persons, and returnees. In the course of this work, the CPRSI was involved in addressing several crisis situations, such as that involving Kosovo Roma, Ashkali, and Egyptian refugees at Medzetlija, a border point between the former Yugoslav Republic of Macedonia and Greece, in 2003.²⁰

The period between 1998 and 2003 saw a phase of consolidation in the CPRSI’s mandate and mission. Firstly, the Contact Point was reinforced by the creation – in a decision by the 1998 Oslo Ministerial Council – of the post of OSCE Adviser on Roma and Sinti within ODIHR, who was also to act as the head of the CPRSI.²¹ At the Istanbul Summit the following year, the participating States concluded that a “further helpful step might be the elaboration by the Contact Point of an action plan of targeted activities, drawn up in co-operation with the High Commissioner on National Minorities and others active in this field, notably the Council of Europe”.²² Strong support for the further development of the Contact Point came with the recommendations

19 See OSCE ODIHR, Contact Point for Roma and Sinti Issues, Briefing Paper, *Joint European Commission and OSCE ODIHR Programme: “Roma, use your ballot wisely!”*, *Country Profiles: Roma Participation in Elections in South-Eastern Europe 2003-2005*, Warsaw December 2006, at: http://www.ecoi.net/file_upload/227_1166545977_22514-en.pdf.

20 Cf. OSCE Office for Democratic Institutions and Human Rights, Press Release, *OSCE Skopje conference ends with agreement on return of Roma refugees stranded at Greek border*, Skopje, 25 July 2003, at: <http://www.osce.org/odihr/55517>. Cf. also Office for Democratic Institutions and Human Rights, *Annual Report 2003*, p. 64, available at: <http://www.osce.org/odihr/32239>. Some 700 Roma refugees from Kosovo residing in the Former Yugoslav Republic of Macedonia moved to the Greek border in an attempt to enter the European Union on 19 May 2003. When the Greek border authorities refused to allow them to cross the border, they set up camp and remained there. Following two months of deadlock, the border crisis was eventually resolved between representatives of the refugee group and the authorities of the former Yugoslav Republic of Macedonia, based on a five-point plan brokered by ODIHR and the Council of Europe.

21 Nicolae Gheorghe, a Roma from Romania, was appointed as Adviser at the OSCE/ODIHR in 1998. He served in this position until 2006.

22 Istanbul Summit Declaration, section 31, in: Organization for Security and Co-operation in Europe, *Istanbul Summit 1999, Istanbul Document 1999*, Istanbul 1999, January 2000/Corr., pp. 46-58, here: p. 52, at: <http://www.osce.org/mc/39569>.

made in the second report by the HCNM on Roma and Sinti, in 2000, which were instrumental in enhancing the CPRSI's mandate.²³

Over this same period, substantive work was done to realize the Contact Point's Istanbul Summit tasking – the drafting of an action plan of “targeted activities”. The effort, led by the Adviser on Roma and Sinti, comprised broad consultations and international meetings organized by and with the active participation²⁴ of the CPRSI and, at a later stage, the drafting of the document by a working group comprised of delegations from a number of participating States.²⁵

The adoption of the Action Plan closed another chapter in the history of the Contact Point's activities. Less than a decade after the creation of the CPRSI, the participating States adopted a groundbreaking document that has served as an important reference both for evaluating and monitoring states’

23 “In light of the complexity and magnitude of the issues Roma face, and the various inter-governmental bodies which have developed initiatives related to Roma, the OSCE Contact Point for Roma and Sinti Issues will be most effective if the office establishes targeted priorities in implementing its broad mandate. The following are some of the activities that could usefully be pursued by the Contact Point.

1. Assume a pro-active role in analyzing information concerning measures undertaken by participating States in meeting their OSCE commitments vis-à-vis Roma and in advising governments concerning their efforts to meet those commitments.

2. OSCE participating States should respond in a timely fashion to specific questions concerning their policies and practices in respect of Roma that may be formulated by the Contact Point.

3. Act as an advisor to governments on mechanisms that are likely to ensure the effective participation of Roma in policy-making at the national, regional and local level, and in linking national policy to implementation at the local level.

4. Advise governments on effective mechanisms for alleviating tensions between Romani and non-Roma communities, and on effective means for combating anti-Roma discrimination by public officials and institutions, including police. The compilation of a manual of ‘best practices’ in this regard could be a particularly useful contribution.

5. Conduct on-site inquiries as necessary to investigate conditions affecting Roma populations. The Contact Point should be assured the necessary resources and facilities to conduct these inquiries.

6. Governments and inter-governmental bodies confronted with the challenge of protecting Romani communities which are at risk can draw upon the Contact Point as a resource; the OSCE in particular could usefully incorporate Roma issues into its training programs for its mission members who are working in countries with Roma populations.

7. In light of the Contact Point's mandate to include ‘seminars [and] workshops’ in his work program, and of the utility of targeted implementation in this area of the mandate, it would be a particularly useful contribution to organize a seminar on the issue of ethnic data collection by governments.

8. The programs of the Contact Point should be shaped, at least in part, by the possibility of enhancing the contributions of important initiatives in respect of Roma undertaken by other organizations.” *Report on the situation of Roma and Sinti in the OSCE Area*, cited above (Note 12), Chapter VI, Recommendations, E. Enhancement of the Mandate of the Contact Point for Roma and Sinti Issues, pp. 165-166.

24 Mention should also be made of the contributions to this process by leading non-governmental organizations, such as PER, the Open Society Institute, the European Roma Rights Center (ERRC), Amnesty International, and the Minority Rights Group, to name just a few. Furthermore, the drafting process for the OSCE Action Plan benefited from critical review and input by the Council of Europe's Roma Division and from the recommendations on Roma made by the Committee of Experts on Roma and Travellers.

25 The working group was chaired by Ambassador Liviu Bota of Romania.

progress with regard to Roma integration and for efforts and initiatives by other intergovernmental organizations. It has also proven to be a useful advocacy tool for Roma and non-Roma civil-society actors.

The Development of the OSCE Action Plan on Improving the Situation of Roma and Sinti for Shaping National Policies to Promote Integration

The 2003 Action Plan²⁶ is undoubtedly the most far-reaching and detailed policy document on Roma-related issues at international level.²⁷ It covers, in 139 paragraphs, all of the important aspects of ensuring that Roma and Sinti people are able, without discrimination, to play a full and equal part in our societies. The Action Plan provided participating States with a road map on how to improve the situation of Roma and Sinti.

The Action Plan served as a reference in all subsequent efforts by the participating States to develop their own national strategies or programmes for the integration of Roma and Sinti communities.²⁸ In some instances, the CPRSI has been directly involved in helping governments to work out these programmes.²⁹ The value of the Action Plan and the role of the Contact Point have been widely recognized by other intergovernmental organizations.³⁰

Ever since it commenced its activities, the CPRSI has recognized the importance of strengthening co-operation with international organizations,

26 Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area, Annex to Decision No. 3/03, in: OSCE, *Eleventh Meeting of the Ministerial Council, 1 and 2 December 2003*, MC.DOC/1/03, Maastricht, 2 December 2003, pp. 62-77

27 General Recommendation 27: Discrimination against Roma, adopted by the UN Committee on the Elimination of Racial Discrimination (CERD) at the 57th session in 2000, sets out a number of measures in the areas of anti-discrimination, education, living conditions, media, and public participation to be followed by member states. Moreover, numerous recommendations and resolutions have been adopted by various Council of Europe bodies since 1996. Most recently, on 20 October 2010, the Council of Europe's Secretary General called for a high-level conference for Roma, which led to the adoption of the "Strasbourg Declaration on Roma". Another notable initiative is the "Decade of Roma Inclusion 2005-2015", a regional initiative supported by a number of states as well as by the Open Society Institute, the World Bank, and other international organizations. This initiative is aimed at addressing the socio-economic challenges that hinder greater inclusion of Roma communities within wider society. The initiatives' priority areas are education, health, employment, and housing.

28 OSCE documents and, in particular, the 2003 Roma and Sinti Action Plan have been quoted in governmental strategies or programmes for Roma and Sinti integration such as the Polish Action Plan that was adopted in 2005.

29 Most recently, the ODIHR CPRSI has been providing assistance to Moldova's government in relation to the elaboration of a new Roma Action Plan 2011-2015.

30 A number of Council of Europe documents pertaining to Roma make reference to the OSCE Action Plan; EU institutions also refer to the Action Plan, e.g. in EC communications on Roma or in European Parliament resolutions. The President of the European Commission, José Manuel Durão Barroso, also mentioned the OSCE standards in his speech at the European Roma Summit in 2008, cf. José Manuel Durão Barroso, President of the European Commission, "*European Roma Summit*", Speech/08/429, Brussels, 16 September 2008, at: http://www.romadecade.org/files/downloads/General_Resources/Barroso_Roma_Summit_Speech.pdf.

and it has always sought to complement and co-ordinate its various programmatic activities with those of the other stakeholders. In 2000, for example, the CPRSI initiated the creation of the Informal Contact Group on Roma of Intergovernmental Organizations.³¹

The Contact Point's mandate was strengthened by the 2003 Maastricht Ministerial Council Decision to adopt the Action Plan, and its associated tasks increased in scope. This began a new phase in its activities,³² coinciding with the EU's enlargement in 2004, which brought in ten new member countries, some of which had significant Roma and Sinti populations. This changed the whole architecture of Europe's Roma policy and of the stakeholders involved, as the PHARE programme of aid to Central and Eastern European countries in the pre-accession period had already played a positive role both for the acceding countries and for the civil society within them, which benefited from the funding received.³³

Following the 2004 enlargement, and another enlargement in 2007, the focus of the Contact Point's activities shifted increasingly to states outside the EU and especially to the post-crisis countries of the former Yugoslavia and their Roma communities.³⁴ The enlargement process itself, however, ushered in new developments and challenges related to Roma and Sinti populations inside the Union, leading to increased migration of Roma from the new EU member states to the "old" states, which, in some cases, led to a rise in intolerance levels and in the incidence of violence against Roma. These unfortunate trends resulted in greater attention being paid by ODIHR to Roma and Sinti issues within the enlarged EU space.

With EU institutions becoming more involved with Roma and Sinti issues,³⁵ the Contact Point identified the need to help provide co-ordination

31 Ever since its inception, the ODIHR CPRSI has co-ordinated its activities with other international stakeholders. This process was formalized in the creation of the Informal Contact Group on Roma of Intergovernmental Organizations. The Informal Contact Group continues to meet regularly, usually on the sidelines of international events such as EU Platform meetings for Roma Inclusion.

32 Following the adoption of the Action Plan, the CPRSI began to assist participating States in implementing the Plan's recommendations and, on request, in dealing with other specific topics. In 2004, for example, the CPRSI launched the two-year programme "Police and Roma: Towards Safety for Multiethnic Communities". In the following year, trafficking in human beings and the protection of Roma children were addressed, as well as civil registration and the legalization of informal settlements to improve the living conditions of Roma and Sinti.

33 See European Commission, Directorate General for Enlargement, *European Union support for Roma communities in Central and Eastern Europe*, Brussels 2002, updated 2003, at: http://ec.europa.eu/enlargement/pdf/brochure_roma_oct2003_en.pdf; see also: Project on Ethnic Relations, *Roma and the EU accession: elected and appointed Romani representatives in an enlarged Europe*, Princeton 2003, also available at: [http://www.per-usa.org/Reports/Per Brussels Report.pdf](http://www.per-usa.org/Reports/Per%20Brussels%20Report.pdf).

34 For more details, see Office for Democratic Institutions and Human Rights, *Implementation of the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area. Status Report 2008*, Warsaw 2008, pp. 51-55, available at: <http://www.osce.org/odihr/33500>.

35 In 2004, two Roma women from Hungary were elected to the European Parliament. This was the first time that Roma had entered the European Parliament.

and promote co-operation and the harmonization of policies and efforts among the rising number of stakeholders that emerged at international organization level. Two conferences were convened by ODIHR to focus on enhanced co-operation in the implementation of national Roma integration policies, the first in Warsaw in 2005 and the second in Bucharest in 2006.³⁶

A number of changes, both in the way the Contact Point functioned and in the focus of its activities, came in 2007. Greater priority was given to the assessment and monitoring of participating States' implementation of their OSCE commitments on Roma and Sinti issues, and more time was devoted to identifying and addressing trends that were of concern to ODIHR in this area. This resulted in a number of ODIHR-led field assessment visits.

The first such visit, to Romania, was conducted that very year in co-operation with representatives of the HCNM and the OSCE Strategic Police Matters Unit; its aim was to address the issue of the use of force by police and law-enforcement bodies in the course of their professional work with Roma communities. A report on the findings of the field assessment visit was released; it included a set of recommendations for the Romanian interior ministry and police forces.³⁷

The next field assessment visit, in 2008, was to Italy following the declaration of a state of emergency in three regions by the government. The government cited an influx of Roma migrants to the regions as the reason for the decision, which also came after an arson attacks against Roma camps in Naples and Rome.³⁸

A third such visit, to Hungary, was conducted the following year in response to a series of attacks against the Roma there that resulted in a number of deaths.³⁹ Each of the field assessment visits was followed by the issuing of a report and recommendations for the governments concerned, as well as concrete follow-up activities with the relevant authorities.

This period also saw a reformulation by ODIHR of the Contact Point's focus and activities in relation to the situation of Roma in post-conflict situations in South-eastern Europe. A new emphasis was placed on engaging the governments of EU countries in working out and supporting sustainable and long-term solutions to issues concerning Roma, Ashkali, and Egyptian refu-

36 The International Implementation Conference on Roma, Sinti and Travellers, Warsaw, 20-21 October 2005; International Conference on the Implementation and Harmonization of National Policies on Roma, Sinti and Travellers. Guidelines for a Common vision, Bucharest, 4-5 May 2005.

37 See OSCE ODIHR, *Field Visit on Police and Roma relations, Romania*, 12-15 November 2007, at: <http://www.osce.org/odihr/30876>.

38 See OSCE Office for Democratic Institutions and Human Rights/High Commissioner on National Minorities, *Assessment of the Human Rights Situation of Roma and Sinti in Italy. Report of a fact-finding mission to Milan, Naples and Rome on 20-26 July 2008*, Warsaw/The Hague, March 2009, at: <http://www.osce.org/odihr/36374>.

39 See OSCE Office for Democratic Institutions and Human Rights, *Addressing Violence, Promoting Integration. Field Assessment of Violent Incidents against Roma in Hungary: Key Developments, Findings and Recommendations, June-July 2009*, Warsaw, 15 June 2010, at: <http://www.osce.org/odihr/68545>.

gees and internally displaced persons in the region. To this end, ODIHR, in co-operation with the Project on Ethnic Relations, an NGO in the United States, organized two round tables, which addressed these issues (in Vienna and Pristina respectively) and held a third in Belgrade which was organized in co-operation with the Serbian government.⁴⁰ The CPRSI also helped organize a briefing for the German *Bundestag* on the issues of forced and voluntary return of members of these communities from Germany to the Western Balkans. In 2011, ODIHR became one of the partner organizations in a new project focused on Roma in the Western Balkans that was set up by the European Commission's Directorate-General for Enlargement and implemented in co-operation with OSCE field operations and EC Delegations in the region.⁴¹

In 2008, the Contact Point concluded its work on another important project – a Status Report assessing the implementation by participating States of the provisions of the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area. In the process of developing the report – the first assessment of this kind conducted by ODIHR – the Contact Point developed a methodology for assessing the progress made by the participating States in meeting their commitments to improve the situation of Roma and Sinti.⁴² The findings of the report represent both a reference point for evaluating progress and, at the same time, a valuable resource for state authorities responsible for implementing Roma policy. The Status Report's findings identified good practices in this area and also outlined trends and the dilemmas states face in their efforts to achieve the objectives laid out in the Action Plan.

This period also saw the body of OSCE commitments related to Roma and Sinti grow as a result of Ministerial Council Decisions taken in Helsinki in 2008 and Athens in 2009.

Ministerial Council Decision No. 6/08 was a direct result of the analysis in the Status Report on the Action Plan, particularly in its focus on ensuring access to early education for Roma and Sinti children as a prerequisite for an

40 See Project on Ethnic Relations, *International Roundtable on Roma, Ashkali and Egyptians of Kosovo: Challenges and Prospects of Sustainable Integration*, Vienna, 22 October 2008, Report, Princeton, December 2008, at: <http://www.per-usa.org/Reports/RAE>Returns.pdf>; Project on Ethnic Relations, *International Roundtable on Roma, Ashkali, and Egyptians of Kosovo: Challenges and Prospects of Sustainable Integration*, Pristina, 9 February 2009, Report, at: [http://www.per-usa.org/Reports/Microsoft Word -20Final Pristina Report edited.pdf](http://www.per-usa.org/Reports/Microsoft%20Word%20Final%20Pristina%20Report%20edited.pdf); OSCE ODIHR, *Report of the OSCE-ODIHR Roundtable. Organized in co-operation with the Serbian Ministry of Human and Minority Rights, Sustainable Solutions for Displaced Roma, Ashkali and Egyptians and Policies to Improve the Reintegration of Repatriated Roma*, Belgrade, 16 April 2010, at: <http://www.osce.org/odihr/75578>.

41 The ODIHR CPRSI has been participating, as a partner organization, in round tables organized by the European Commission's Directorate-General for Enlargement in several countries in the Western Balkans.

42 Nicolae Gheorghe, ODIHR's Adviser on Roma and Sinti, initiated the project for the Status Report and substantive preparatory work was done during his term in the post.

equal starting point and for future educational success, which is vital to better social inclusion and integration.

The second, Ministerial Council Decision No. 8/09, reflected concerns over increases in intolerance of and violence against Roma and Sinti in the OSCE, which arose partly from the conclusions of the field assessment visits to Italy and Hungary.⁴³

Challenges in Implementing the Roma-related OSCE Commitments and International Obligations

The OSCE commitments, including those contained in the Action Plan, are politically binding and, as such, their implementation depends largely on the political will shown by participating States. The 2008 Status Report found that a lack of political will to ensure implementation of the Action Plan provisions had prevented a breakthrough in any area of the lives of Roma and Sinti in the OSCE region. In many cases, implementation has been piecemeal or ineffective due to a lack of readiness or commitment on the part of governments to provide adequate, sustainable financial, institutional, and human resources during the process. Although there have been many good practices piloted at local level, these have not been translated into country-wide practice. Roma and Sinti issues have featured only marginally on the political agendas of governments in participating States, and then often only when existing tensions threatened to escalate, or did escalate, into violence.⁴⁴

Calls to enhance implementation and to secure concrete outcomes have been issued at the highest level and by key stakeholders. That was the case with the European Commission President, José Manuel Barroso, at the first EU Roma Summit held in Brussels in 2008⁴⁵ and with the Council of Europe's "Strasbourg Declaration on Roma" from 20 October 2010.⁴⁶ Ambassador Janez Lenarčič, the Director of ODIHR, has raised this issue on numerous occasions, most recently at the Warsaw 2010 OSCE Review Con-

43 Cf. Decision No. 8/09, Enhancing OSCE Efforts to Ensure Roma and Sinti Sustainable Integration, MC.DEC/8/09 of 2 December 2009, in: OSCE, *Seventeenth Meeting of the Ministerial Council, 1 and 2 December 2009*, Athens, 2 December 2009, pp. 32-34. Most recently, similar concerns were raised in the OSCE Parliamentary Assembly's Belgrade Declaration, specifically in the resolutions on Promoting Policies in Favour of the Roma Population and on Promoting Policies on Equality between Women and Men of the Roma Population, in: OSCE PA, Belgrade Declaration of the OSCE Parliamentary Assembly and Resolutions Adopted at the Twentieth Annual Session, Belgrade, 6 to 10 July 2011, pp. 52-55 and pp. 56-58, respectively, available at: <http://www.oscepa.org/meetings/annual-sessions/belgrade-2011>.

44 For more, see the Executive Summary of the *Status Report 2008*, cited above (Note 34), pp. 9-11.

45 See Barroso, cited above (Note 30), p. 4.

46 See Council of Europe High Level Meeting on Roma, Strasbourg, 20 October 2010, "*The Strasbourg Declaration on Roma*", available at: <http://www.coe.int/lportal/web/coe-portal/event-files/our-events/council-of-europe-meeting-for-roma>.

ference and in his speech at the aforementioned high-level meeting on Roma and travellers in Strasbourg.⁴⁷

Research carried out and reports produced on Roma policy and its implementation with the support of the EU have come to similar conclusions.⁴⁸ The few assessments of structural funds and their impact for Roma⁴⁹ that have been carried out have painted an ambiguous picture: The funds have been used but have produced no tangible results. The EU is currently pushing for more result-oriented policy implementation in its member states.⁵⁰

Emerging Trends

Roma and Sinti migration has become a key challenge in the OSCE area today and is likely to remain so for some time.⁵¹ The push and pull factors underpinning these movements are still not adequately understood, while the

47 See *High-Level Meeting on Roma and Travelers, Remarks by Ambassador Janez Lenarčič, ODIHR Director, Strasbourg, 20 October 2010*, at: <http://www.osce.org/odihr/73350>.

48 See European Commission, Directorate-General for Employment, Social Affairs and Equal Opportunities, *Improving the tools for social inclusion and non-discrimination of Roma in the EU*, Luxembourg 2010.

49 See *European Council 23/24 June 2011, Conclusions*, Brussels, 24 June 2011, at: <http://register.consilium.europa.eu/pdf/en/11/st00/st00023.en11.pdf>.

50 The most recent EU Council Decision, from July 2011, regarding the EU Framework for National Roma Integration Strategies, which commits all 27 member states to developing targeted policies that systematically tackle the socio-economic exclusion of and discrimination against Roma people throughout the EU, provides new hope that things will eventually progress in the right direction. This is especially the case given that this decision requires member states, by the end of 2011, to finalize, update, and improve their national Roma integration strategies or their integrated political initiatives aimed at improving the situation of Roma within the broader framework of social-inclusion policies. The national approaches must focus on four priority areas: education, employment, healthcare, and housing. They must also set out attainable goals. The Framework Strategy has a robust inbuilt monitoring mechanism for progress on the integration of Roma by the member states. These efforts to come up with renewed commitments and measures at EU level to push for a more action-oriented policy that will also ensure tangible outcomes have been welcome. For more information, see European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. An EU Framework for National Roma Integration Strategies up to 2020*, COM(2011) 173/4 Brussels 2011, available at: <http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=1011&furtherNews=yes>; see also: Council of the European Union, *Council conclusions on an EU Framework for National Roma Integration Strategies up to 2020*, Brussels, 19 May 2011, at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/122100.pdf. The Commission has also taken an increasingly proactive approach. The high-level visits by the European Commission to EU member states to review the use of structural funds for improving the situation of the Roma and Sinti are examples of such efforts. A series of high-level seminars on Roma in the pre-accession Western Balkan states organized by the Directorate-General for Enlargement constitutes another such positive development.

51 The serious human rights challenges faced by Roma when migrating or exercising their right to freedom of movement, together with attendant security implications, were the focus of a joint international conference in Vienna on 9 and 10 November 2009 co-organized by ODIHR in co-operation with the European Union Agency for Fundamental Rights, the Council of Europe Commissioner for Human Rights, and the OSCE HCNM.

multiple forms of discrimination and, sometimes, violence against Roma and Sinti migrants continue. There has been a resurgence of past stereotypes and prejudices against Roma and Sinti, characterizing them as uncontrollable nomads, associating them with illicit or illegal activities, and/or labelling them as the “undeserving poor”. This scapegoating of Roma and Sinti as a burden on social welfare systems or a danger to public safety and order feeds long-established pejorative perceptions of these communities and, in some instances, has been used by state authorities as justification for their actions in attempting to regulate and control Roma migration. Attempts to view Roma migrants as a public safety issue and efforts to penalize begging or to identify begging as a cultural characteristic of Roma are likely to occupy more space in the political agendas of some state authorities and political groupings. These attitudes are conducive to intolerance and scapegoating and, in extreme cases, can lead to open hostility and violence.

There has been a noticeable increase in the number of hate-motivated attacks against members of Roma and Sinti communities in a number of participating States, some of which have led to deaths.⁵² While members of this community have been subjected to various forms of violence in the past, more recent attacks appear to have been more commonly motivated by racist ideologies, premeditated, and planned.⁵³ The deliberate use of hate speech targeting Roma and Sinti appears to be on the rise in a number of OSCE participating States. Criminal justice systems, often slow or reluctant to recognize the racial basis for these attacks, often compound the problem.

The mobilization of extreme-right groups or political organizations ready to instigate and exploit hate speech, focusing on the concept of “Gypsy criminality”, is also likely to continue. Populist, extreme-right, or neo-Nazi groups are especially prone to exploiting anti-Roma prejudice and sometimes

52 In recent years, a number of high-profile cases of hate-motivated incidents of violence against Roma and Sinti have been reported in a number of participating States. The most serious were attacks against Roma in Hungary in late 2008 and the first half of 2009. A series of violent incidents targeting people and property resulted in the deaths of six Roma. With MC Decision No. 8/09 adopted in Athens in December 2009, the OSCE Ministerial Council expressed concern over the increase of violent manifestations of intolerance against Roma and Sinti and urged the participating States to address this trend and to unequivocally and publicly condemn any violence targeting Roma and Sinti and to take all necessary measures to ensure access to effective remedies. The essential role free and independent media can play in both countering and exacerbating misperceptions and prejudices was also recognized; cf. Decision No. 8/09, cited above (Note 43).

53 In February 2009, ODIHR issued a press release expressing concern over the continuing attacks and hate speech targeting Roma and Sinti communities in several countries across Europe. Responding to a series of violent attacks against Roma individuals, families, and property in Hungary, ODIHR conducted a field assessment visit to the country from 25 June to 3 July 2009; cf. OSCE Office for Democratic Institutions and Human Rights, cited above (Note 39). In order to raise awareness of extremist manifestations of racism, intolerance, and hate-motivated violence against Roma in Europe and to analyse the potential threat these pose to social cohesion and security, ODIHR supported the organization of a conference on “Extremism and the Roma and Sinti in Europe: Challenges, Risks and Responses” in London in September 2009.

instigate hostility or violence against Roma and Sinti.⁵⁴ While this approach by extreme-right and similar groups with regard to the Roma is not a new phenomenon, the increased political influence of and public support for such ideologies are worrying developments.

While this situation has been fuelled partly by the financial crisis and the current economic conditions, fundamental changes in party politics, in which populist ideologies have become more acceptable, even for mainstream parties, have also played a part. In such circumstances, negative portrayals of Roma become tools that are used by some politicians and parties to mobilize electorates.

A key factor in this is the deteriorating social and economic situation for Roma and Sinti. The marginalization of these communities, economically and socially, simply feeds anti-Roma prejudice.

Anti-Roma discourse has become a characteristic of politics in a number of participating States not only at national level, but also locally, where openly anti-Roma statements can increasingly be heard. Local authorities and mayors in a number of areas have actively pursued policies aimed at driving Roma and Sinti out of their communities. Exclusion or separation is openly advocated in some municipalities.⁵⁵

Conclusions: Roma and Sinti Issues in the Human Dimension in the Next Decade

The Contact Point's main task is to help participating States implement commitments with regard to Roma and Sinti. At the heart of this task is the need to mobilize or buttress the political will of governmental authorities to take action in this area. From this perspective, ODIHR's work in this area is far from finished. The key issue in the future will be the same one that has prevailed up until now – ensuring that the governments of participating States follow through on their commitments.

After nearly two decades of commitment to work on Roma and Sinti issues, both independently and in co-operation with other international organizations and civil society, ODIHR has learned some important lessons and accumulated a number of good practices.⁵⁶ Despite this acquired knowledge and expertise both at ODIHR and at other international organizations and NGOs dealing with the issue, the implementation of Roma policy is still in its

54 See Andrzej Mirga, *The Extreme Right and Roma and Sinti in Europe: A New Phase in the Use of Hate Speech and Violence?* In: *Roma Rights Journal* 1/2009. pp. 5-9, at: <http://www.errc.org/cms/upload/media/04/10/m00000410.pdf>.

55 See European Roma Rights Centre, *Factsheet: Summit-to-Summit Roma Rights Record 2010*, 8 April 2010, at: <http://www.errc.org/cikk.php?cikk=3573>.

56 See *Status Report 2008*, cited above (Note 34); see also the ten “Common Basic Principles for Roma Inclusion”, in: Council of the European Union, *Council conclusions on Inclusion of the Roma*, Luxembourg, 8 June 2008, pp. 4-6, at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lssa/108377.pdf.

early stages in many states, with discussions and debates still focusing on planning and policy design, and these often subject to change and redesign as new governments come into office. The ongoing efforts by international organizations and civil society to spur participating States into implementing their commitments and launching programmes to help improve the situation of Roma and Sinti have demonstrated the difficulties in moving the agenda from one of saying the right things to one of concrete and sustained action.

It also seems that, even with greater involvement on the part of the EU and the financial resources it has to offer, progress on this front may remain slow because major obstacles remain. Some of the problems are deeply entrenched, and there are no quick fixes for achieving goals like raising the level of education among Roma to a level comparable to national averages, reducing levels of Roma unemployment, or fighting the discrimination faced by Roma effectively in all areas of life. With few social or economic indicators showing improvement in the situation of Roma, and evidence of increasing hostility towards their communities among non-Roma in some states, these disturbing trends related to Roma and Sinti might not just continue, but could very well worsen.

The last few years have been especially troubling, and the global economic and financial crisis has certainly exacerbated some of these negative trends. However, surprisingly little attention appears to be being paid to the impact of reductions in public spending triggered by recent economic conditions and concerns over debt levels, including on the most economically disadvantaged groups in society, such as Roma and Sinti.

Prospects in the short term appear bleak even in areas where there has been some constant, if minor, improvement in the situation of Roma and Sinti in the past, such as in education, housing, political participation, and Roma representation in public media. In a number of participating States, there appear to have been setbacks in the areas mentioned above, as the gap between standards for Roma and Sinti and majority have not been closed. Lack of leadership, the revocation of previous policies or measures, and inaction and neglect – especially in the face of the need to cut spending in areas like welfare and social benefits – are only likely to exacerbate negative trends. These developments have the potential to erupt into open conflicts, as examples from a number of participating States in recent years demonstrate.

In the past, ODIHR has been more focused on providing assistance to newer democracies and states in crisis or post-crisis situations. Today and probably over the next decade, however, consolidated and young democratic societies will be challenged with human rights violation faced by Roma and Sinti. Tackling hate crime against the Roma and Sinti may become a recurrent issue over the decade to come. In this process the OSCE commitments will need to be reiterated and followed up.

ODIHR and specifically the CPRSI will have an important role to play in assisting participating States in defusing these dangers and in promoting

good practices, particularly by working closely with other international actors and civil society, including representatives from Roma and Sinti communities.

The OSCE Copenhagen and Moscow Documents: A Short Commentary on the OSCE's Contributions to Gender Equality in Political and Public Life

Introduction

The Copenhagen and Moscow Documents¹ are key documents of the Organization for Security and Co-operation in Europe (OSCE) that reflect developments in the area of human rights and human security, which includes gender equality. This paper discusses the contribution made by these two interlinked and mutually reinforcing documents to gender equality and women's rights. My working premise is that human-security standards have been developing in accordance with the main trends of international law as a whole in recent years, which has tended to encourage women's participation in political life and government. This is well documented.²

Since the 1990s, there has been a tendency to move towards the universalization and legal formalization of the principle that the effectiveness of government should be evaluated in terms of the importance granted to human needs and their representation in official policy. At the international level, this principle is integral to the concept of the security of individuals, which considers the process of satisfying human needs as a potential object of international influence, and not as an area of exclusive nation-state competence. At the same time, the value placed on representation has furthered the position that women should not be excluded from state building, political processes, and government institutions. Without the inclusion of women in decision making, "representative" democracy is compromised, and there can be no realization of the right to live in dignity.³

1 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe, Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 439-465; Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, in: *ibid.*, pp. 605-629.

2 Cf. Amitai Etzioni, *From Empire to Community*, New York, NY, 2004; Amitai Etzioni, *Security First: For a Muscular, Moral Foreign Policy*, New Haven, CT, 2007; Kseniya Khozinskaya, *Chelovecheskie potrebnosti kak faktor formirovaniya instituta mezhdunarodnoi bezopasnosti. Avtoreferat na soiskanie uchenoi stepeni kandidata politicheskikh nauk* [Human needs as a factor in the formation of international security. Thesis submitted for receiving the degree of candidate of political science], Moscow 2008.

3 Cf. Nadezda Shvedova, *Obstacles to Women's Participation in Parliament*, in: *Women in Parliament: Beyond Numbers*, International IDEA, Stockholm 2005, at: http://www.idea.int/gender/wip_handbook.cfm.

This paper considers why new standards in international relations were needed to ensure equitable human development, and how the Copenhagen and Moscow Documents reflected the inherent challenges behind the building of accountable, multiparty democracy. It then turns to the commitments of the OSCE participating States to promote gender equality as contained in these documents. It emphasizes the main characteristics of the Copenhagen Document, including its *uniqueness* and *concreteness*. The paper reveals that a distinct approach to questions of gender originated in the Moscow Document, whose provisions regarding the status of women have not lost their relevance. On the contrary, they have become more significant in the 21st Century.

What Called the New Norms to Life?

In the new political situation that developed in Europe following the fall of the Berlin Wall, which symbolized the division of countries into two blocs with different forms of social and political organization, there was an objective need for innovative international agreements. The process of radical political change continued after the first meeting of the Conference on the Human Dimension of the CSCE in Paris in 1989. Established and new democracies worked together with the purpose of creating clear standards and integrating the concepts of democratic elections, rule of law, and human rights. The new standards were enshrined for the first time in the Copenhagen Document. Significantly, these political norms did not require ratification by national parliaments, which enabled the OSCE to play the primary, “avant-garde role in setting standards after the Cold War”.⁴

The OSCE’s commitments are based on a comprehensive approach to security. The Concluding Document of the third follow-up meeting of the CSCE, signed in Vienna on 15 January 1989, is a fundamental OSCE document.⁵ It introduced the concept of the “human dimension” of the OSCE, covering not only respect for all human rights and freedoms, but also human contacts and other related issues. The “human dimension of security” refers to respect for and promotion of human rights and fundamental freedoms, whilst strengthening democratic institutions and the rule of law.

The second meeting of the Conference on the Human Dimension of the CSCE was held in Copenhagen from 5 to 29 June 1990, with 35 participating

4 Ambassador Audrey Glover, cited in: Curtis Budden, *Living up to the Legacy: Key OSCE Human Rights Document Turns 20*, 1 June 2010, at: <http://www.osce.org/odihr/elections/69578>.

5 Concluding Document of the Vienna Meeting 1986 of Representatives of the Participating States of the Conference on Security and Co-operation in Europe, Held on the Basis of the Provisions of the Final Act Relating to the Follow-up to the Conference, Vienna, 15 January 1989, in: Bloed (ed.), cited above (Note 1), pp. 327-411.

States and one observer state (Albania). The participants of the second meeting rightly noted three major circumstances:

- radical political change in Europe,
- the significant contribution of the CSCE to those changes, and
- the important influence of those changes on implementation of the Helsinki Final Act⁶ and other CSCE documents.⁷

The participating States proclaimed pluralistic democracy and the rule of law to be fundamental principles that are essential to ensure respect for all human rights and fundamental freedoms, the development of human contacts, and the resolution of other issues of a related humanitarian character. The Copenhagen Document validated and further codified a number of fundamental principles agreed upon by representatives of CSCE participating States in the Concluding Document of the Vienna Meeting, namely:

- respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion, and convictions, for all without any distinction on the grounds of race, sex, language, and religion;
- recognition of the global significance of human rights and fundamental freedoms as an essential factor of peace, justice, and security, necessary for the development of good-neighbourly relations and co-operation among all states;
- the determination to guarantee the effective exercise of human rights and fundamental freedoms, all of which derive from the inherent dignity of the human person and are essential for his or her free and full development;
- recognition of the paramount importance of civil, political, economic, social, and cultural rights and freedoms, which must be fully realized by all appropriate means.

Main Characteristics

The uniqueness of the Copenhagen Document lies in its approach to the rule of law, which it understands to mean not only “formal legality” but also “justice”.⁸ The goal of development, according to the strategy of sustainable development, is not only to improve quality of life, but to also ensure justice, interpreted in its broadest form to include respect for the human rights of

6 Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in: Bloed (ed.), cited above (Note 1), pp. 141-217.

7 Cf. Document of the Copenhagen Meeting, cited above (Note 1), pp. 439-440.

8 Cf. *ibid.*, section 2.

each individual. Gender equality (as a fundamental human right)⁹ and justice are thus overarching principles and necessary conditions for human development.¹⁰

The Copenhagen Document enumerates 21 concrete elements of justice that are essential to the full expression of the inherent dignity and equal and inalienable rights of all human beings, from free elections and representative government, to the right of any person prosecuted to defend him- or herself in person or through prompt legal assistance of his or her own choosing. It further underlines the principles of full equality before the law and non-discrimination.

It is vital to note the continuity between the various CSCE and OSCE documents adopted by the participating States. The Copenhagen Document refers to the “important contribution of international instruments in the field of human rights to the rule of law at a national level” and includes a commitment to the “purposes and principles of the Charter of the United Nations [and] other obligations under international law”.¹¹ The participating States also committed themselves to “consider acceding to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other relevant international instruments [...] to a regional or global international convention concerning the protection of human rights, such as the European Convention on Human Rights or the Optional Protocol to the International Covenant on Civil and Political Rights, which provide for procedures of individual recourse to international bodies”.¹²

A further merit of the Copenhagen Document is that it links OSCE standards to concrete activities that OSCE institutions are mandated to undertake, including those relating to gender equality. For example, it was the first OSCE document to include provisions related to the methodology of conducting democratic elections, which later became the basis of the activities of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) in the field of election monitoring, and which notably include the monitoring of

9 Cf. United Nations General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), A/34/46; date of adoption: 18 December 1979, at: <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>. See also Council of Europe Parliamentary Assembly, *Increasing women's representation in politics through the electoral system*, Report of 22 December 2009, at: <http://assembly.coe.int/Documents/WorkingDocs/Doc09/EDOC12097.pdf>.

10 Cf. Nadezda Shvedova, Gender, Demokratiya i grazhdanskoe obshchestvo [Gender, Democracy, and Civil Society], in: *Predstavitel'naya Vlast'* [Representative Power] 6/2005, also available at: <http://www.owl.ru/content/openpages/p59416.shtml>. The term “sustainable development” was first coined by the United Nations World Commission on Environment and Development (WCED) in its 1987 report, *Our Common Future, From One Earth to One World*, available at: <http://www.un-documents.net/ocf-ov.htm#1.2>. See also Duncan French (ed.), *Global Justice and Sustainable Development*, Legal Aspects of Sustainable Development, vol. 7, Leiden 2010.

11 Document of the Copenhagen Meeting, cited above (Note 1), section 37.

12 Ibid., sections 5.20 and 5.21.

women's participation and representation in all electoral processes. The mechanism provided for in the Copenhagen Document includes the state obligation to invite foreign observers to monitor national elections. This requirement was innovative because it acknowledged that democracy and human rights concern not only the state in question but also the security of a whole region.

The vested interest that all OSCE participating States have in the democratic functioning of countries in their region also brings gender equality into sharp focus. The OSCE participating States recognize that "vigorous democracy depends on the existence as an integral part of national life of democratic values and practices as well as an extensive range of democratic institutions".¹³ This requires that women be granted the right to vote, to freely join and lead political associations, and to participate in national, regional, and local electoral processes on an equal basis with men.¹⁴ The importance of both international and national monitoring of women's participation in electoral processes has been further recognized in a variety of OSCE publications, including the 2004 OSCE Action Plan for the Promotion of Gender Equality¹⁵ and the ODIHR's Handbook on Monitoring Women's Participation in Elections.¹⁶ The 2004 OSCE Action Plan on the Promotion of Gender Equality specifically tasks ODIHR with continuing, "as a part of its Election Observation Mission, to monitor and report on women's participation in electoral processes" and further, when possible, to "commission and publish reports specifically analysing the situation of women in electoral processes".¹⁷

Gender Equality as a Core Principle for the Development of Human Potential

The OSCE participating States have committed themselves to promote gender equality as a core principle for the development of human capacities, and as a foundation for progress and development aiming at raising quality of life

13 Ibid., section 26.

14 The right of women to participate in political processes on an equal basis with men was further elaborated upon in OSCE Ministerial Council Decision No. 7/09, Women's Participation in Political and Public Life, MC.DEC/7/09 of 2 December 2009, in: Organization for Security and Co-operation in Europe, *Seventeenth Meeting of the Ministerial Council, 1 and 2 December 2009*, Athens, 2 December 2009, pp. 30-31..

15 2004 OSCE Action Plan for the Promotion of Gender Equality, Annex to Decision No. 14/04, 2004 OSCE Action Plan for the Promotion of Gender Equality, MD.DEC/14/04 of 7 December 2004, in: *Twelfth Meeting of the Ministerial Council, 6 and 7 December 2004*, MC.DOC/1/04, Sofia, 7 December 2004, pp. 38-53, here: 39-53, also available at: <http://www.osce.org/mc/23295>.

16 OSCE/ODIHR, *Handbook for Monitoring Women's Participation in Elections*, Warsaw 2004, available at: <http://www.osce.org/odihr/elections/13938>.

17 2004 OSCE Action Plan for the Promotion of Gender Equality, cited above (Note 15), section 44(d).

and enhancing justice.¹⁸ Inalienable human rights, including the rights of women and girls, are bestowed at birth and cannot be restricted unduly. Respect for human rights implies the eradication of attitudes that restrict women's access to politics and decision making. Furthermore, complete respect for human rights and freedoms is a component of representative and inclusive democracy, which includes:

- equal rights and opportunities for political participation for all citizens, without distinction on grounds of sex;
- acknowledgement that equal representation of women in elected and appointed positions in government is a matter of justice and equality;

as well as the recognition that:

- women introduce new elements into political culture in general, as they may be more likely to initiate issues and concerns that relate to gender and family;
- women bring with them new legislative initiatives corresponding to their position in society, thereby affecting parliamentary agendas;
- women in politics can create new role models for women, young people, and children, as their example of political participation can inspire others and foster the eradication of gender stereotypes and traditions in society;
- including women increases the pool and scope of talent, knowledge, and expertise available to governments and the political sphere; and
- an increased number of women parliamentarians may make it easier for other women to enter political life and parliaments across the board, reducing the obstacles that women face to entering the political sphere.¹⁹

Women's representation in government is not an end in itself, but a condition of development towards a more productive and socially equitable society and state. This fully corresponds to OSCE commitments to achieve justice and respect for human rights while also raising the quality of life of the citizens of OSCE participating States.²⁰ The goal of promoting representative multiparty democracy cannot be achieved without women.

The Copenhagen and Moscow Documents therefore reflect trends in the development of international security paradigms that increasingly focus on

18 Cf. 2004 OSCE Action Plan for the Promotion of Gender Equality, cited above (Note 15), sections 1 and 2.

19 Cf. Nadezda Shvedova, *Prosto o Slozhnom: Gendernoe prosveshchenie* [Simply about the Complex: Gender Education], Moscow 2002, at: <http://www.owl.ru/win/books/easygender>. See also Anne Phillips, *Engendering Democracy*, Cambridge 1991; and Pippa Norris/Mona Lena Krook, *Gender Equality in Elected Office: A Six-Step Action Plan*, a baseline study commissioned by ODIHR in 2010, available at: <http://www.osce.org/odihr/78432>.

20 Cf. Shvedova, *Gender, Demokratiya i grazhdanskoe obshchestvo*, cited above (Note 10).

the rights and security needs of individuals, both women and men. The Copenhagen Meeting and Document enabled all the states in the region, including established as well as “new” democracies, to work together on the basis of certain standards, all linked by the concepts of democracy, the rule of law, and respect for human rights. The Copenhagen Document was the first international instrument to underline the interdependence between not only democracy and human rights, but also these and the rule of law. The document elaborates a concept of justice “based on the recognition and full acceptance of the supreme value of the human personality and guaranteed by institutions providing a framework for its fullest expression”.²¹ The OSCE participating States recognized democracy to be the only system of government able to ensure effective protection of human rights, and declared that pluralistic democracy must be based on the rule of law. From 10 September to 4 October 1991, the third (and last) meeting of the Conference on the Human Dimension of the CSCE was held in Moscow. Both documents recognize the importance of pluralism in regard to political organizations. The Moscow Document states, among other things, that “the participating States recall their commitment to the rule of law in the Document of the Copenhagen Meeting and affirm their dedication to supporting and advancing those principles of justice which form the basis of the rule of law. In particular, they again reaffirm that democracy is an inherent element in the rule of law and that pluralism is important in regard to political organizations.”²²

The OSCE Approach to Gender

If the Copenhagen Document can be considered neutral from the gender perspective, as it does not include any provisions specifically addressing the issue of gender equality, the Moscow Document introduced gender issues into the CSCE framework, pointing out the most acute problems relating to the status of women. However, the Copenhagen Document had already prohibited any discrimination “solely on the grounds of race, colour, sex, language, religion, social origin or of belonging to a minority”.²³ The participating States committed themselves to considering “adhering, if they have not yet done so, to the international instruments which address the problem of discrimination” and ensuring “full compliance with the obligations therein, including those relating to the submission of periodic reports”.²⁴

The historic significance of the document signed at the Moscow Meeting of the Conference on the Human Dimension of the CSCE (10 September to 4 October 1991) is that it proclaimed for the first time that human rights,

21 Document of the Copenhagen Meeting, cited above (Note 1), section 2.

22 Document of the Moscow Meeting, cited above (Note 1), section 18.

23 Document of the Copenhagen Meeting, cited above (Note 1), section 25.4 (emphasis added).

24 Ibid., section 40.6.

fundamental freedoms, democracy, and the rule of law are matters of international concern, and that the OSCE human dimension commitments do not belong exclusively to the internal affairs of the state concerned.²⁵ In other words, human rights and freedoms are matters of the security and stability of the OSCE region and the whole international community.

The OSCE's approach to gender is derived from the principle of justice that provides the basis for the rule of law. According to the Moscow Document, "the participating States recognize that full and true equality between men and women is a fundamental aspect of a just and democratic society based on the rule of law. They recognize that the full development of society and the welfare of all its members require equal opportunity for full and equal participation of men and women."²⁶ The same section of the Moscow Document enumerates 13 commitments relating to gender equality. It states, in particular, that the participating States "will comply with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)" and "take appropriate measures to implement the United Nations Nairobi Forward-looking Strategies for the Advancement of Women (FLS)" as well as ensuring that "all CSCE commitments relating to the protection and promotion of human rights and fundamental freedoms are applied fully and without discrimination with regard to sex".²⁷

The Moscow Document enshrines the principle of "equal opportunities" for men and women. It is important to note that this concept, explicated in section 40.4, is "de facto equality", where the "goal [of the participating States is] to achieve not only *de jure* but *de facto* equality of opportunity between men and women and to promote effective measures to that end".²⁸ This de facto equality includes ensuring equal opportunities for women in the following areas:

- political and social life, decision-making processes, and international co-operation;
- the economic sphere, including non-discriminatory employment policies and practices;
- study and work, including in non-traditional areas for women;
- access to education and training;
- combining employment with family responsibilities; and
- access to information.

The Moscow Document also includes an important provision that structural adjustments in the economic sphere should not have discriminatory consequences for women. The participating States "will seek to ensure that any

25 Cf. Document of the Moscow Meeting, cited above (Note 1), p. 606.

26 Ibid., section 40.

27 Ibid., sections 40.1-40.3.

28 Ibid., section 40.4 (emphasis in the original).

structural adjustment policies or programmes do not have an adversely discriminatory effect on women”.²⁹ This provision remains extremely relevant for the post-Soviet countries, where women have had to pay an extremely high price as a result of structural adjustments (perestroika).

Many other provisions of the Moscow Document regarding the status of women are also growing in relevance at the present time, particularly those concerning the problems of violence against women, trafficking in human beings, and sexual exploitation. The participating States undertook to seek the elimination of all forms of violence against women, and all forms of exploitation of and trafficking in women in 1991, including by ensuring “adequate legal prohibitions against such acts and other appropriate measures”.³⁰

The participating States also recognized the “rich contribution of women to all aspects of political, cultural, social and economic life” and committed themselves to “promote a broad understanding of these contributions, including those made in the informal and unpaid sectors”.³¹ They further acknowledged the “vital role women and women’s organizations play in national and international efforts to promote and enhance women’s rights by providing, *inter alia*, direct services and support to women and encouraging a meaningful partnership between governments and these organizations for the purpose of advancing equality of women”.³²

The participating States were aware of the need for and committed to ensuring that “information regarding women and women’s rights under international and domestic law is easily accessible” and that this required “collection and analysis of data to assess adequately, monitor and improve the situation of women”.³³

Crucially, the commitments and principles contained in the Moscow Document form the basis for key OSCE policy and programming documents with a current application. The 2004 OSCE Action Plan for the Promotion of Gender Equality transforms these commitments into practical tasks and responsibilities to be carried out by the various OSCE institutions. This includes the application of a thorough process of “gender mainstreaming”³⁴ in

29 Ibid., section 40.6.

30 Ibid., section 40.7.

31 Ibid., section 40.10.

32 Ibid., section 40.9 (emphasis in the original).

33 Ibid., sections 40.11 and 40.13.

34 Cf. OSCE Ministerial Council Decision No. 14/04, cited above (Note 15), p. 38. The definition of gender mainstreaming adopted there (footnote 4) is: “Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality.” This definition was taken from: United Nations, General Assembly, Official Records, Fifty-second Session, Supplement No. 3, A//52/3/Rev.1, New York 1999, Chapter IV, para. 4.

all planning, policy, programming, and monitoring processes undertaken by OSCE institutions, both internally and in its relations with external actors. Furthermore, the OSCE Secretary General was requested to issue annual reports on the implementation of the Action Plan. This analytical report is an important monitoring and reporting instrument, to which every part of the OSCE contributes. It provides the participating States with an accurate picture of how the OSCE and its various structures have been progressing in implementing the priorities of the Action Plan. The OSCE has taken further steps to reinforce its commitment to gender equality by nominating a Special Representative of the OSCE Chairperson-in-Office on Gender Issues in 2010. This high profile position, currently held by Wendy Patten, is used to highlight critical gender-equality issues that deserve prioritization on national and OSCE policy agendas.

Remaining Challenges

The main goal of the Moscow Meeting was to confirm and complement the commitments previously undertaken by the participating States in the Copenhagen Document, and thus to broaden the framework of the OSCE human dimension. The participating States reiterated the principle of shared responsibility in the area of human rights and freedoms and democratic government, and further underlined the interdependence between human rights and freedoms, democratic principles, and security in the region. Today, these provisions continue to be innovative and groundbreaking in the area of gender equality in political life.

At the same time, there is a persistent gap between the declarations renewing the commitment to implement fully the principles of gender equality, and the actual situation for women aiming to actively participate in public life and enter politics. The implementation of the OSCE's gender-related commitments remains uneven and incomplete in the participating States. The patchy implementation of commitments on gender equality, and the political participation of women, which is largely a result of the specific circumstances of each country regarding its social, economic, and political development, creates a situation where some OSCE participating States can serve as an example to those that are further from reaching the benchmarks of successful gender-equality policies. "Gender-developed countries" should therefore guide states that are still at the beginning of the reform process by sharing positive examples and other information relevant to women's participation.

As a prominent international organization, the OSCE should strengthen the existing mechanisms for monitoring the "gender code" of participating States. It is vital to avoid concealing the real situation regarding gender equality in a particular country. The possibility of creating an enhanced

mechanism on gender equality within the OSCE framework is also worth considering. The 2004 Gender Action Plan itself should be updated to include indicators, timelines, benchmarks, responsible actors, and the allocation of budgetary resources. A concrete action plan of this kind would be far more useful as a monitoring tool. It would also serve as a comprehensive reference resource for participating States as they develop and update their own national action plans on gender equality. The active position of certain OSCE participating States can be an important means of resolving the problems of gender equality in countries where the situation is most critical. This could include sharing positive examples of co-operation between civil-society organizations and government entities.

Conclusions

The Copenhagen and Moscow Documents cannot be considered in isolation from the missions and other activities of the OSCE. In view of the problems that exist in ensuring women's equal representation in politics alongside men, the OSCE should broaden its efforts. It has the capacity to do so. Promoting the ideas contained in the Copenhagen and Moscow Documents is the most important instrument by which this work can be pursued. Achieving equality between men and women is an essential element of the policy and practice of the OSCE. It is also a historic mission of this international organization. In reality, gender equality and genuine democracy are closely linked processes, and it is within the mandate of ODIHR to assist the participating States to achieve greater levels of gender equality. The 2004 Gender Action Plan tasks ODIHR to assist OSCE participating States in complying with international instruments for the promotion of gender equality and women's rights, and in reviewing legislation to ensure appropriate legal guarantees for the promotion of gender equality in accordance with OSCE and other commitments. Furthermore, the OSCE tasks ODIHR with actively assisting participating States in developing and implementing positive measures to achieve the equal participation of women and men in democratic processes.³⁵ Non-discrimination and democracy are OSCE values, and the participating States can play a very important role in representing and sharing examples of good practices.

It is important not to consider gender issues exclusively as "women's problems" that should be dealt with by women only. The participants in the OSCE Supplementary Human Dimension Meeting (SHDM) on the Promotion of Gender Balance and Participation of Women in Political and Public Life, held in Vienna on 6-7 May 2010, called for more active efforts to promote women's participation in public life. The objective of the SHDM was to consider the progress achieved and the problems remaining in the area of

35 Cf. 2004 OSCE Action Plan for the Promotion of Gender Equality, cited above (Note 15), section 44(d).

gender equality and the effective participation of women in public life. It included discussions on the empowerment of women as members of political parties and as elected officials. The ODIHR Director, Ambassador Janez Lenarčič, stressed the importance of gender balance for any democracy: “If the high degree of legitimacy that democracy enjoys is to be sustained, achieving de facto equality needs to top the agenda of policy-makers.”³⁶ The Ambassador rightly noted that democracy remains a mere aspiration if a considerable part of a country’s population continues to be excluded from public life. The final report of the SHDM event highlights key recommendations developed by participants to promote gender equality and enhance the participation of women in political and public life. These included:

- establishing national mechanisms for the advancement of women;
- developing effective gender equality and anti-discrimination legislation; and
- implementing specific measures to achieve gender balance in political parties as well as legislative, judicial, and executive bodies.³⁷

Also at the SHDM, a proposal was made to establish an OSCE Eurasian Institute on Gender Equality in Astana, Kazakhstan, which could be a catalyst for the promotion of gender mainstreaming in the region.

The OSCE documents and their implementation in the human dimension have become the necessary background against which the culture of international behaviour is shaped. Patterns of behaviour developed by the progressive international community (who have also determined the functional development of the OSCE institutions and commitments) are embodied in the OSCE’s documents on gender equality; they reflect the need for more effective representation and participation that exists in the majority of participating States. The significance of the Copenhagen and Moscow Documents is therefore due to the fact that they both express the idea of interdependence between stability and security, acknowledging that the internal stability of states depends on the implementation of human rights and freedoms. These two documents remain cornerstone agreements for the OSCE’s human dimension commitments. They lay the basis for a comprehensive working philosophy on gender equality and effective representation and participation.

36 OSCE/ODIHR press release, *OSCE meeting on gender equality begins with calls for more action on increasing women’s participation in public life*, Vienna, 6 May 2010, at: <http://www.osce.org/odihr/69253>.

37 Cf. OSCE, *Supplementary Human Dimension Meeting, “Promoting Gender Balance and Participation of Women in Political and Public Life”, 6-7 May 2010, Vienna, Austria, Final Report*, pp. 4 and 16, at: <http://www.osce.org/odihr/71180>.

Towards a Strategic Approach in Applying Gender-Sensitive Indicators: Guidance for OSCE Programming

Introduction: Gender Equality in the OSCE

Throughout its twenty years of existence, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) has consistently promoted gender equality as a cornerstone of representative, pluralistic, and stable democracies. The equal participation of women and men in all spheres of private and public life is enshrined in OSCE commitments and reflected in its policies, programmes, and activities. The 20th anniversary of OSCE/ODIHR therefore provides an opportunity to assess the progress achieved in promoting gender equality both within the Organization and in its participating States.

Measuring the progress being made in transforming OSCE gender-equality commitments into lived realities for women and men across the OSCE region is a critical component of any organizational policy development or programming process. This article looks more closely at the importance of assessing progress in achieving gender equality and in mainstreaming a gender perspective in all OSCE programmes, projects, and activities. Specifically, the article looks at the development and use of indicators, including gender-sensitive indicators, in OSCE/ODIHR programming. Gender-sensitive indicators are a key tool in the measurement of changes in the situations of women and men in societies over time. Applied systematically, gender-sensitive indicators track progress in securing equal rights and opportunities for women and men, and highlight continuing gender-based disparities in the enjoyment of these rights and opportunities. This information can and should be used systematically to inform future programming.

The authors of this article recognize that the fundamental components for systematically monitoring and evaluating the impact of OSCE/ODIHR programming in the field of gender equality are in place. The OSCE/ODIHR has developed various gender-equality projects in the past and currently implements two programmes¹ aimed at increasing women's participation in political and public life as well as striking a gender balance in the security sector. The OSCE, by and large, has also committed itself to an ambitious project of gender mainstreaming all its policies, programmes, and activities,

Note: The views expressed in this article do not necessarily reflect those of ODIHR. The authors would like to thank Ajla van Heel, Eimear O'Casey, and Nataliia Kuzmina for their valuable support and their contributions to this article.

- 1 These are the programme on "Increased Participation of Women in Politics" and the "Human Rights, Women and Security" programme.

which has resulted in greater organizational awareness of and sensitivity to gender issues.

However, the Organization as a whole can and should develop a more systematic methodology for using indicators in its work in order to properly measure the impact of our assistance and to document women's progress in the political and security spheres within the Organization and in its 56 participating States. An important aspect of this monitoring and evaluation process is the development and application of gender-sensitive indicators to measure progress in achieving gender equality in a context-specific, interconnected, and systematic way. This approach will allow the OSCE/ODIHR to better assist participating States (and the Organization itself) in achieving their gender-equality commitments in the long run.

Following a general presentation of key OSCE commitments in the area of women's participation in politics and in the security sector, the article provides an overview of indicators as understood within the framework of this paper. This is followed by an assessment of relevant indicators currently being used in these sectors, the main challenges in developing and applying indicators, and ways forward in refining and developing new gender-sensitive indicators. The authors then propose a series of principles that may be used to guide the process of developing indicators for OSCE programming. The article concludes with several examples of these principles' application in the work of OSCE/ODIHR in the fields of women's participation in politics and security.

OSCE Commitments on Gender Equality in Political Life and the Security Sector

OSCE participating States have committed themselves to achieving gender equality in all spheres of activity, and in particular to promoting the equal participation of women and men in political and public life. These commitments are enshrined in the Moscow Document of 1992, in which participating States recognize that:

Full and true equality between men and women is a fundamental aspect of a just and democratic society based on the rule of law. [Participating States] recognize that the full development of society and the welfare of all its members require equal opportunity for full and equal participation of men and women.

The critical importance of women's political participation to the peaceful and prosperous democratic development of the OSCE region is highlighted in Ministerial Council Decision No. 7/09 on Women's Participation in Political and Public Life. In this Decision, the OSCE calls on participating States to

ensure women's equal participation in the development of policies, legislation, and programmes. It encourages participating States to consider adopting specific measures to achieve gender balance in executive, legislative, and judicial functions and to promote women's participation in political life, including political parties. The OSCE further commits itself and its participating States to respect and fulfil provisions relating to the equal participation of women and men in political and public life contained in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Likewise, the OSCE recognizes that effective security institutions, policies, and programmes should reflect the needs and interests of both men and women. There must be equal opportunities for men and women to participate in and shape security institutions and programmes. For women in particular, these aims can be achieved by ensuring their recruitment, retention, and promotion within the ranks, providing for gender parity in decision making, and gender-sensitizing *all* members of security sector institutions, whose ultimate duty is to serve the public in a fair and non-discriminatory manner. OSCE participating States are committed to these international obligations in Ministerial Council Decision No. 14/05 on Women in Conflict Prevention, Crisis Management, and Post-Conflict Rehabilitation and the 2004 OSCE Action Plan for the Promotion of Gender Equality, which underscore support for United Nations Security Council Resolution 1325 (UNSCR 1325) on Women, Peace, and Security, subsequent UNSCRs in this vein, and relevant legally binding provisions of CEDAW.

Background: Gender-Sensitive Indicators and Their Application

How do we measure progress achieved in implementing OSCE gender-equality commitments across the OSCE region? Indicators are tools used to monitor and assess changes in a given situation over a specified period of time. Whether applied to policies, programmes, or projects, indicators measure results achieved and simultaneously highlight where more progress is needed. When applied systematically, indicators provide a clear track record of societal change, and therefore constitute an important component of any monitoring and evaluation system.

More recently, attention has been focused on increasing the gender sensitivity of monitoring and evaluation systems, recognizing that, due to gendered attitudes, expectations, and beliefs, any changes achieved impact men and women, boys and girls differently. As a result, various national and international bodies have started to develop and apply "gender-sensitive" indicators. The added value of gender-sensitive indicators lies in "their ability to

point to changes in the status and roles of women and men over time, and therefore to measure whether gender equity is being achieved”.²

Gender-sensitive indicators can be used to track progress in the implementation of gender-specific interventions. However, indicators in general can also be made more “gender-sensitive” by recognizing that policies, programmes, and activities will impact men and women differently due to their different roles and responsibilities as well as their access to, power over, and the allocation of resources within families and communities. Making indicators for *any* project more gender-sensitive may be as simple a process as distinguishing between male and female participants in a workshop, but the consequences may be profound for international support processes determined to reach the most vulnerable and marginalized in societies. Therefore, we may distinguish between different types of gender-sensitive indicators, which can be developed and applied according to specific programme objectives. The UNDP’s Democratic Governance Centre has developed the following classification scheme:

1. *Gender-specific*: These indicators measure practices specifically targeted at women or men, such as policies to increase women’s empowerment. An example might be the percentage of seats in a national parliament reserved for women.
2. *Implicitly gendered*: There is no explicit reference made to gender, but the indicator is clearly relevant to either men or women. Examples may include the number of reported cases of domestic violence prosecuted in courts (victims predominantly female).
3. *Chosen separately by men and women*: Such indicators can reflect differences in the priorities, needs, and interests of women and men, as well as differences in perceptions and opinions. An example might be the degree to which men and women feel that their needs are reflected in the priorities of governmental or parliamentary agendas.
4. *Disaggregated by sex*: The value of the indicator is calculated separately for men and women and therefore allows comparisons to be made between the two groups; for example, this may include the level of voter turnout among men to that of voter turnout among women.³

Such a framework provides useful guidance in increasing the gender sensitivity of all measurement tools, whether applied to gender-specific initiatives or initiatives in other sectors.

2 Canadian International Development Agency (CIDA), *Guide to Gender-Sensitive Indicators*, August 1997, at: <http://www.acdi-cida.gc.ca/acdi-cida/acdi-cida.nsf/eng/REN-218124839-P9K>.

3 This configuration is taken from UNDP, *Measuring Democratic Governance: A framework for selecting pro-poor and gender sensitive indicators*, May 2006.

International, regional, and national actors implementing gender initiatives within and outside the OSCE region have begun to establish and use gender-sensitive indicators in order to gauge the level of impact their activities have on women and men. As the body of indicators developed for application in different sectors grows, so too does awareness of the challenges in systematically gathering data as part of monitoring and evaluation processes. This section explores in greater detail the types of challenges faced in measuring the impact of policy and programme initiatives in general, and specifically in the sphere of gender equality.

(Gender-sensitive) indicators may be developed by institutions to guide and track internal processes of organizational change (for example, the implementation of a gender-mainstreaming strategy), or to assess the impact of policies, programmes, and activities implemented for the benefit of external stakeholders. A key challenge in applying indicators, including gender-sensitive indicators, is effectively measuring change at the *outcome* level. Measuring inputs and outputs may be relatively straightforward, but assessing progress at the levels of outcomes and goals is extremely difficult, not least because the achievement of outcomes most often lies partially outside the control of any given institution. Therefore, it is often difficult to determine *attribution* in any progress achieved.

Furthermore, to accurately measure changes in a given situation, it is necessary to first establish a *baseline*, a snapshot of a situation as it currently stands before programme implementation (usually accomplished by compiling statistics or other available information). This is especially difficult when measuring changes in gender equality and gender relations in many OSCE participating States, as statistics are not always systematically collected or analyzed, and mostly not disaggregated by sex. Baseline data is even more challenging to collect when an attempt is made to gather *qualitative* data, such as levels of awareness or prevailing perceptions, attitudes, and behaviour. Yet it is precisely such changes that must be measured if a society's progress in achieving gender equality is truly to be gauged. Lastly, as organizations increasingly apply participatory approaches in their capacity-building and support initiatives, it is natural to question how participatory the process of indicator development is and should be. A "bottom-up" approach which engages programme beneficiaries must often be delicately balanced with an organization's own objectives and priorities for programme delivery. Needless to say, as monitoring and evaluation systems and approaches become more nuanced, participatory, and comprehensive, the costs in terms of human, financial, and technical resources also rise, for which a proper budget must be developed.

Many of these challenges are reflected in work which is focused on women's participation in political and public life, including decision making.

The single most important indicator developed thus far for measuring women's political participation and influence is the number of women represented in the (lower house of) the respective national parliament. Yet such an indicator does not measure the *quality* of women's participation in, or the *level of women's influence* on parliamentary processes such as law making, policy review, or agenda setting.⁴ Even when complemented by sub-indicators measuring the number of women holding decision-making positions, such quantitative indicators do not provide a full picture of the scope of women's decision-making power. For example, there is an emerging trend towards nominating or appointing women to "deputy" positions, such as deputy chairs and/or deputy speakers. Whilst technically a senior position, the level of decision-making authority deputies wield can vary greatly. Too often, female deputies are placed in a position of assisting (often male) chairs and speakers in implementing their own agendas. Furthermore, such an indicator also fails to reveal whether the women represented in parliament actively support gender equality and women's empowerment.⁵

Furthermore, relying exclusively on singular, quantitative indicators can actually have a distorting effect, leading analysts, policy-makers, and project/programme managers to draw the wrong conclusions from data sets. For example, several OSCE participating States have introduced legally binding gender quotas in an effort to increase women's parliamentary representation. In some participating States, this has resulted in a marked increase in the number of women parliamentarians, for example in the former Yugoslav Republic of Macedonia and in Kyrgyzstan.⁶ However, if not accompanied by political and public awareness-raising and targeted capacity-development measures, quotas can actually serve to diminish women's decision-making powers, as women elected to legislatures through quotas may be perceived as unqualified, unprepared, and undeserving of public office. In such cases, the number of women represented in parliament, and even the number of women holding senior positions (such as deputy chairs of committees or deputy speakers) may not provide a full and accurate picture of the extent of women's political agency and influence.

4 Cf. Tessa Hochfeld/Shahana Rasool Bassadien, Participation, values, and implementation: three research challenges in developing gender-sensitive indicators, in: *Gender & Development*, 2/2007, pp. 217-230. See also Karen Barnes, *Turning Policy into Impact on the Ground, Developing indicators and monitoring mechanisms on women, peace and security issues for the European Union*. Synthesis report, May 2009, available at: http://www.initiativeforpeacebuilding.eu/pdf/Synthesis_TURNING_POLICY_INTO_IMPACT_ON_THE_GROUND.pdf.

5 There are national initiatives that track women MPs' voting record on legislation containing explicit gender dimensions. Such initiatives provide the public with evidence of women MPs' commitment to gender equality and women's empowerment. However, this can also be seen as placing the burden of championing gender equality squarely on the shoulders of women.

6 See Pippa Norris/Mona Lena Krook, *Gender Equality in Elected Office: A Six-Step Action Plan*, 2011. Research commissioned by ODIHR, available at: <http://www.osce.org/odihr/78432>.

In the security sector, as in the political sphere, there is a tendency to default to (and a near dependency on) basic quantitative indicators such as the number of women within a particular security sector institution or in decision-making positions. Some of the existing National Action Plans (NAPs) for the Implementation of UNSCR 1325 (1325 NAPs) in the OSCE region rely on number and percentage increases as indicators. For example, the Canadian 1325 NAP outlines several thematic areas, and under each heading, there is an emphasis on measuring the “number and percentage” of female personnel in missions and departments as well as the number of attempts to ensure their participation therein.⁷ In order to promote women in military and civilian peace-building efforts, the Swiss 1325 NAP narrows in on the “total number of supported candidates”, the “number of supported female candidates”, and the “percentage share of female candidates”.⁸ The idea is that if women are present and their numbers are increased throughout the ranks, then that is sufficient for their overall advancement. While strength in numbers is important, it is not the only evidence of progress.

There is a further hurdle for measuring women’s participation in the security sector: an overall absence of indicators. Certain national policies in the OSCE region stress the need to increase the number of women in security, promote them to decision-making and leadership positions, and increase their participation in peacekeeping missions. Such goals are outlined with various degrees of detail in the 1325 NAPs of Bosnia and Herzegovina,⁹ Finland,¹⁰ Norway,¹¹ the Netherlands,¹² and Spain.¹³ However, the plans often fail to pair these goals with indicators. Thus, at the national policy level, even *quantitative* measurements are not referenced. In December 2008, Working Group 1325 commissioned an evaluation of the Dutch 1325 NAP one year after its implementation. Evaluators made several suggestions for improvement and included a list of sample quantitative and qualitative indicators.¹⁴ Further participating States in the OSCE region are being encouraged to undertake such exercises and include indicators directly in their 1325 NAPs

7 Cf. *Building Peace and Security for All, Canada’s Action Plan for the Implementation of United Nations Security Council Resolutions on Women, Peace and Security*, 2011.

8 See Swiss Confederation, Federal Department for Foreign Affairs, *Women, Peace and Security. National Action Plan to Implement UN Security Council Resolution 1325 (2000)*, 2010, p. 8.

9 See *Action Plan for the Implementation of UNSCR 1325 in Bosnia and Herzegovina 2010-2013*, pp. 23-31.

10 See Ministry of Foreign Affairs of Finland, *UN Security Council Resolution 1325 (2000), Women, Peace and Security. Finland’s National Action Plan 2008-2011*, pp. 15, 20.

11 See *The Norwegian Government’s Action Plan for the Implementation of UN Security Council Resolution 1325 (2000) on Women, Peace and Security*, 2006, pp. 5-13.

12 See *Dutch National Action Plan on Resolution 1325. Taking a Stand for Women, Peace and Security*, 2007, pp. 34-35, 39-43.

13 See *Plan de Acción del Gobierno de España para la Aplicación de la Resolución 1325 del Consejo de Seguridad de las Naciones Unidas (2000), Sobre Mujeres, Paz y Seguridad*, pp. 3-5, 7.

14 See *One year NAP 1325. Evaluating the Dutch National Action Plan on UNSC Resolution 1325 After One Year of Implementation*, 2008, p. 49.

in such a way that they can properly measure and document the commitments they are making to and on behalf of women.¹⁵

The UN has undergone an extensive process of setting forth global indicators for tracking the implementation of UNSCR 1325 on Women, Peace and Security worldwide. By means of consultations and a mapping exercise, 2,500 indicators were gathered and narrowed down to a group of 20 organized along specific goals in four thematic areas. The thematic areas focus on

- mainstreaming a gender perspective into all conflict prevention activities and strategies especially for preventing sexual and gender-based violence;
- promoting and supporting women's active and meaningful participation in all peace processes as well as their representation in formal and informal decision-making at all levels;
- strengthening and amplifying efforts to secure the safety, physical and mental health, well-being, economic security, and/or dignity of women and girls; and
- promoting women's equal access to aid relief and recovery.¹⁶

In the area dealing with women's participation in peace processes and decision making, the indicators rely heavily on numbers and percentages.¹⁷ Nevertheless, the UN global indicators for tracking the implementation of UNSCR 1325 are a good start and set the premise for the development of national, context-specific indicators geared towards the systematic measurement of progress in this area.

Towards Comprehensive Indicators for Women in Politics and the Security Sector

The authors of this article would like to propose a selection of measurements that, taken together, can provide a more comprehensive picture of women's participation in and contributions to governance and the security sector. It should be noted that, as with the UN indicators on UNSCR 1325, these indicators are merely suggestions and are meant to provide guidance for more specific measurements that could apply in national contexts within the OSCE region.

In the political sphere, one area of fruitful research in the OSCE region would be on levels of *women's political solidarity* at local, national and, if possible, international levels. By women's political solidarity, we mean the

15 A good example is the *Austrian Action Plan on Implementing UN Security Council Resolution 1325 (2000)*, 2007.

16 Cf. UN Secretary General, *Women, Peace and Security. Report of the Secretary-General*, S/2010/173, 6 April 2010, p. 3.

17 *Ibid.*, pp. 17-18.

degree to which women politicians support, mentor, and encourage each other as a deliberate strategy to empower women as political actors. Such a topic might include quantitative indicators on the number of women who entered politics as a result of support from other women; the number of parliamentary bodies established to provide professional support and development opportunities to women; and/or the number and type of mentoring programmes available to women. Qualitative indicators might include the level of support to enter politics women received from members of their family, women in their community, and other professional women; the degree to which women politicians feel they succeeded in politics because of support networks; the degree to which women perceive other female political actors as competitors; and levels of satisfaction with the support opportunities provided by parliamentary institutions.

The number of women represented in national parliaments is likely to remain the standard indicator for measuring gender equality in politics.¹⁸ However, this indicator can and should be accompanied by several other types of indicators to provide a more complete picture of women's political empowerment. For example, the bulk of parliamentary work is usually carried out in committees. Women are often well-represented in committees dealing with social issues, including health, gender equality, family affairs, and education. They are often under-represented in committees mandated to cover foreign policy, national security, defence, infrastructure, and the economy. If women are members of such committees, their role may be limited to carrying out secretarial functions rather than providing substantial input. Furthermore, qualitative gender-sensitive indicators can provide critical information on changes in levels of confidence among women MPs, and point to substantive changes in gendered attitudes and behaviour. Such information could be collected by means of perception surveys, focus group sessions, and face-to-face interviews. Examples of relevant indicators might therefore include:

- the number and position of women in each of the committee structures;
- the level of confidence women MPs and parliamentary staff feel in voicing their concerns, opinions, and suggestions;
- the degree to which women MPs feel their views and suggestions are integrated into policy-making processes;
- the level of confidence female MPs and staff express in the parliamentary rules of procedure;

18 Women's participation in political parties is also receiving increasing attention, as opportunities for women to stand for election to the national parliament are often directly controlled by political parties. Indicators for measuring women's participation in political parties are discussed in greater detail below.

- the degree to which women MPs and staff feel that the organizational culture of the parliament promotes a gender-sensitive working environment.

The responsiveness of the Parliament to women as citizens and voters should also be taken into consideration. Indicators might include:

- the degree to which women voters feel that their needs, interests, and priorities are represented in Parliament;
- the level of confidence women voters have in women parliamentarians to represent their particular needs, interests, and priorities;
- the degree to which women voters feel that their needs and priorities correspond to issues prioritized in national agendas.¹⁹

Women's participation in political and public life at local level is another area deserving of more attention. Women's opportunities to access political power at national level are often influenced by their access to politics at local level. Measuring women's representation in local government and council structures can therefore provide a more complete picture of women's political opportunities and indicate where increased levels of international support may be warranted. On a related note, "governance" in many OSCE participating States is exercised through both formal institutions and informal processes, especially at local level. Women's access to political power as mediated in and through informal processes is admittedly much more difficult to measure accurately. However, informal institutions and political actors may hold the key to political power for women as well as men, and may help explain levels of women's participation in national governmental and parliamentary structures. More effort could be made to assess women's participation in informal processes such as community-based dispute resolution and local planning. Similarly, we might measure opportunities for women to access political power through the support of informal power brokers such as religious and business leaders (or the degree to which such power brokers can block women's political access).

In the security sector, there has to be a move away from simply counting the number of women in the ranks and in decision-making positions. For example, countries could start to measure whether progress has been achieved on behalf of female soldiers and law enforcement officers by noting the number of references made to gender equality in laws and regulations that govern these particular security sector institutions. Furthermore, tracking the percentage of national budgetary resources allocated to UNSCR 1325-related initiatives would begin to shed light on the level of a government's commitment to promoting women and addressing women's issues in the security

19 Cf. UNDP, *Measuring Democratic Governance*, cited above (Note 3). These indicators are included under the section "Electoral systems and processes".

realm. In the Austrian 1325 NAP, an annex lists all of the women-related peace and security projects overseas that were funded by the Austrian government between 2001 and 2007. An overall tally of this funding that was dedicated to the recruitment, retention, and promotion of women in other countries' security sectors per year could be compared with national spending on other issues and, in this way, transformed into an indicator.²⁰ For countries where women's participation in the security sector at national level is an issue and needs to be increased, national spending on their recruitment, retention and promotion could be similarly tracked.

Several indicators which could be regarded as a set pertain to human resources within the security sector and, if taken together, could provide a more complete picture of whether women are being included and whether discrimination against them is taking place. These are the number of reviews carried out in order to evaluate and eliminate bias from recruitment policies and selection criteria; the existence of lateral entry schemes to encourage qualified individuals from under-represented groups (such as women) to enter at higher positions; and the number of gender-based discrimination and sexual harassment complaints filed against a particular security sector institution.²¹

Attitude surveys and interviews are paving the way for much-needed qualitative indicators in the security sector. Such efforts would track the knowledge of and positive attitude towards gender issues expressed by members of security sector institutions, the commitment on the part of management to advance women, and the propensity to promote non-discriminatory and family-friendly working environments. Furthermore, open public surveys can track the perceptions of ordinary citizens towards security-sector actors, such as police officers, and gauge whether the public thinks they are providing services in a gender-balanced manner.²² Public hearings, participant observations, and focus group discussions on women in security also help to develop qualitative indicators.²³

20 See *Austrian Action Plan on Implementing UN Security Council Resolution 1325 (2000)*, 2007, pp. 16-24.

21 For examples of how these indicators work in practice, see Megan Bastik/Kristin Valasek (eds), *Gender and Security Sector Reform Toolkit, Tool 2: Tara Denham, Police Reform and Gender*, DCAF/OSCE-ODIHR/UN-INSTRAW, Geneva 2008, p. 12-14, available at: <http://www.osce.org/odihr/30652>.

22 For examples of how these indicators work in practice, please see Megan Bastik/Kristin Valasek (eds), *Gender and Security Sector Reform Toolkit, Tool 6: Angela Mackay, Border Management and Gender*, DCAF/OSCE-ODIHR/UN-INSTRAW, Geneva 2008, pp. 12-13, available at: <http://www.osce.org/odihr/30652>.

23 Cf. United Nations/International Alert, *Planning for Action on Women and Peace and Security. National-level Implementation of Resolution 1325 (2000)*, 2010, p. 70.

Quantitative and qualitative indicators for measuring women's progress should generally follow the SMART criteria: indicators have to be Specific, Measurable, Attainable, Relevant, and Time-bound. If such indicators are to paint a more complete picture of women's status in politics and the security sector, they should be included in gender NAPs. These policy mechanisms are a first, key step towards translating women's equality aims into practice. A coalition of European NGOs assembled in September 2009 by the Initiative for Peacebuilding, the European Peacebuilding Liaison Office, and International Alert emphasized a few elements that could be applicable to plans that cover women's political representation and participation as well as the presence of women in security in the OSCE region. In a joint statement, civil society organizations recommended that:

All NAPs should contain as standard the following *key components*: specific and realistic goals, objectives and priority actions, timelines, a budget, indicators, benchmarks and targets, and clear lines of responsibility to specific individuals, units or functions. They should also include a results-oriented and transparent reporting and monitoring mechanism, including a system for tracking funds allocated to the implementation of the action plan.²⁴

A results-oriented plan, with proper monitoring and evaluation in place, requires dynamic and interlinked indicators. This goes beyond simply meeting the SMART criteria. Consequently, the authors of this article propose a set of principles to *guide* the selection of gender-sensitive SMART indicators. To gauge impact and results better, these measuring tools should be:

- *Comprehensive*: By comprehensive, we mean defining indicators that capture the spectrum of issues within a given sphere that may impact on women's participation. This means including those indicators that would measure women's participation at local levels of governance, in formal and informal structures (the latter where possible), in civil-society bodies (associations, councils, NGOs, etc.), and in both formal and informal decision-making roles during conflict prevention or resolution processes.
- *Strategic*: The indicators and criteria chosen to measure women's participation in politics and the security sector should be chosen strategic-

24 EPLO/Initiative for Peacebuilding/International Alert, *Civil Society Recommendations on the Implementation of UN SCR 1325 in Europe*, p. 1 (emphasis in the original), at: <http://www.pacedifesa.org/public/documents/Recommendations%20for%20MS%20meeting%20FINAL.pdf>.

ally, also in relation to one another. This should ensure that the resulting data can be used to inform future planning and programming and that the indicators shed light on women's participation in different political and security arenas that are *not* captured in indices that focus on formal structures at national levels.

- *Comparative:* Single indicators serve to capture important gender-equality measurements. However, taken as a set, indicators can reveal patterns and trends in women's involvement in the political and security spheres; trends that can be important for planning and programming (e.g. high levels of women's participation in informal community associations and local election structures but low participation in formal local or national governance structures may influence programming decisions).
- *Tailored:* This refers to the importance of tailoring gender-related criteria and indicators to the sector being measured and to the specific context. Women's participation in parliament may be a relevant criterion for assessing women's political participation, but is not necessarily the best measurement indicator or criterion for correlating the stability of a country where more emphasis might be placed on the number and role of women in security structures at community and national levels. Tailoring further refers to taking the national context into consideration when designing indicators. UN global indicators on reaching the goals of UNSCR 1325 need to be adapted within the context of each country that seeks to comply with international obligations on women, peace, and security.
- *Systematic:* As in any monitoring and evaluation process, the measurement of indicators must be consistent and undertaken at regular intervals. For example, regular and repeated evaluations of recruitment policies and selection criteria for the armed forces or law enforcement agencies can serve to eliminate gender-based bias if the methodology is correctly structured and consistent from evaluation to evaluation.

The principles noted above are meant to act as a preliminary "check list" for those designing indicators to measure gender equality in politics and the security sector at national levels and, comparatively, at the OSCE regional level. This is by no means a closed list and it will gradually improve as we begin taking steps towards setting forth proper measurements that will provide evidence of women's progress over time.

The Way Forward: Using Indicators to Inform OSCE Programming

Measurement tools such as gender-sensitive SMART indicators are not an end in themselves. They should rather be used to inform planning and pro-

gramming. The above checklist, coupled with the suggested combination of quantitative and qualitative indicators, can be used to plan and programme OSCE gender-equality interventions more strategically at national and regional levels in the political and security spheres.

The OSCE Action Plan for Promoting Gender Equality (2004) clearly outlines the gender-mainstreaming process for all OSCE policies, processes, programmes and activities. The two-pronged approach contained in the Action Plan highlights that gender mainstreaming must occur internally within the Organization (e.g. gender sensitization in processes of strategic planning, human resource management and development, monitoring, and evaluation) as well as in the development of programmes, projects, and activities to assist participating States.

One obvious recommendation for better guiding gender mainstreaming within the OSCE is to develop a monitoring and evaluation framework with clearly identified indicators for each aspect of the Action Plan. A second, related recommendation is to ensure the systematic development of indicators and gender-sensitive indicators for *all* OSCE policies, programmes, and projects (not just gender initiatives). Here the framework developed by the UNDP Oslo Governance Centre, which introduced indicators which are sex-disaggregated, gender-specific, gender-implicit and chosen by women, can provide a useful starting point.²⁵ For OSCE projects and programmes in the areas of democratization and politico-military affairs, for example, all indicators should be *sex-disaggregated* to track the number of women and men benefiting from capacity-building activities such as training, workshops, and round tables. Consultation of both men and women stakeholders in participating States would allow *women to choose* specific indicators to measure progress. Gender-implicit indicators may help to draw out the previously undetected gender dimensions of different issues that may result in new and innovative programming initiatives.

In the sphere of OSCE/ODIHR activities to promote the equal participation of women and men in political and public life, ODIHR can contribute to the development of appropriate indicators in two innovative ways. Firstly, by assisting participating States in developing quantitative and qualitative indicators for measuring women's participation in political parties and electoral bodies. Secondly, by promoting "cross referencing" of data collected by applying indicators to OSCE projects and programmes. In the first case, examples may include indicators to measure the number of women represented in electoral bodies at different levels, the degree to which women members of electoral bodies influence agendas, and/or women members' role in developing public awareness and voter campaigns. In the second case, the data collected through the systematic application of indicators should be compared across indicator sets to produce new areas of potential OSCE programmatic activity. For example, if monitoring reveals an increase in women's

25 Cf. UNDP, *Measuring Democratic Governance*, cited above (Note 3).

representation in central election commissions, it may be worthwhile to compare this with changes in public attitudes towards women candidates, with the number of women holding decision-making positions within political parties, and with the number of cases seeking adjudication of gender-related electoral disputes. Any correlations noted, even if causation cannot be determined, may point to fruitful areas of further programming and research.

In Tajikistan, the State Committee on Women and Family Affairs, in conjunction with the gender NGO community, and supported by several international organizations such as UN Women, the OSCE, and the Asian Development Bank, are in the process of drafting a gender NAP for 2011-2015. The draft plan includes indicators and covers a range of issues including women's participation in decision-making, politics, and the security sector. The inclusion of comprehensive, strategic, comparative, tailored, and systematic indicators would make for better women's initiatives in the political and security spheres. In the sphere of political and public life, the NAP focuses specifically on improving gender balance at all levels of public administration, with indicators to measure women's participation at all levels, in leadership positions, and in professional versus administrative positions. A number of initiatives could be introduced to promote women's participation in political and electoral life, including political parties, complemented by indicators to measure women's influence and decision-making powers better. Indicators to assess changes in women's political and electoral participation may include the number of women on candidate selection/nomination boards within political parties, the adoption of political party platforms that address gender issues, the adoption of voluntary political party quotas, the number of women selected as party candidates, gender-sensitive media depictions of women candidates, changes in public perceptions about women candidates, the number of amendments to electoral and political party laws aimed at increasing equal participation of women and men, the number of amendments adopted, etc.

In the security sector, the draft NAP's goal to increase the number of women employees in institutions such as law enforcement, border agencies, and armed forces could be tracked by a combination of human resources-focused indicators. These could include the number of reviews of gender bias in recruitment policies and selection criteria, the number of gender-based discrimination and sexual harassment complaints, and commitment on the part of management to advance women (via surveys or interviews). Follow-up programming in Tajikistan as a result of these measurements could include a redrafting of the security sector's recruitment policies and selection criteria to include a gender-balanced approach; training measures to sensitize *all* members of the security sector to the negative effects of gender-based discrimination; instituting a clear procedure for addressing sexual harassment cases and establishing a redress mechanism for affected individuals; and creating

incentives for management to implement gender-equality schemes within all ranks, for example, by requiring all management reviews to address gender).

Conclusion

This article has explored the importance of developing gender-sensitive indicators as a means of systematically measuring progress towards achieving the OSCE's gender-equality commitments. It has looked more closely at the traditional challenges to indicator development and application. The authors have proposed the *expansion* of gender-equality indicators to provide a more comprehensive picture of the progress being achieved towards, and the remaining gaps in increasing women's participation in politics and the security sector. The article has also made a proposal on how to enhance the *methodological framework* for developing and applying indicators, and indicated some preliminary areas where indicators could be used to strengthen OSCE/ODIHR programming internally and externally. Measuring progress on gender-equality goals requires a context-specific, interconnected, and systematic approach. Systematically applying indicators, and meeting or falling short of the intended goals as measured by indicators, creates a written record of progress and relapse in achieving women's equality with men; a record that some day will help to answer larger questions regarding correlations between women's empowerment, democracy, and peace.

ODIHR's Contribution to Human Rights Education in the OSCE Area

Introduction

Over the past 20 years, human rights education (HRE) has gained increasing recognition in the OSCE area as one of the main tools for spreading knowledge about human rights and imparting skills for their promotion. HRE plays a fundamental role in the enjoyment of all human rights and is for everyone: children, adolescents, and adults. HRE takes place in a variety of environments: in formal educational settings such as kindergartens, primary and secondary schools, universities, and pre-service and in-service training institutions where teachers and other professional groups (police, military, judiciary, other civil servants, etc.) are trained, as well as in non-formal settings outside of the formal education curriculum. HRE can serve to prevent conflicts and shape values, enrich skills, and broaden knowledge about how to live in a democratic society.

This article surveys ODIHR's contribution to HRE in the OSCE area. HRE is a field in which joint action and co-ordination by international actors has been exceptionally strong. ODIHR's work in this area should be viewed within the international framework of action aimed at adopting more effective educational approaches to building a human rights culture. The added value will be explored by looking at the way the Office has conducted its work in HRE and, in particular, its close co-ordination with OSCE field operations, civil society, and relevant intergovernmental organizations (IGOs). Finally, this piece will present specific examples of ODIHR's engagement in HRE in the past decade, notably *Human Rights Education in the School Systems of Europe, Central Asia and North America: A Compendium of Good Practice*, which was developed jointly with the Council of Europe (CoE), UNESCO, the Office of the High Commissioner for Human Rights (OHCHR) and the NGO Human Rights Education Associates (HREA).

What Is Human Rights Education?

HRE is a constituent part of the right to education. Article 26 (2) of the Universal Declaration of Human Rights stipulates that "education shall be directed to the full development of the human personality and to the strength-

Note: The views expressed in this contribution are the authors' own and not necessarily those of OSCE/ODIHR.

ening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.”¹ Article 13 of the International Covenant on Economic, Social and Cultural Rights recognized the right of everyone to education and confirmed that education should be directed towards the development of human dignity and personality, and should strengthen the respect for human rights and fundamental freedoms.² Other international human rights treaties also mention the importance of education in human rights.³

In their general comments and general recommendations, United Nations (UN) treaty bodies have stressed the key role of education in spreading human rights knowledge and skills.⁴ The United Nations Declaration on Human Rights Education and Training stipulates that “everyone has the right to know, seek and receive information about all human rights and fundamental freedoms and should have access to human rights education and training” and that “human rights education and training is essential for the promotion of universal respect for and observance of all human rights and fundamental freedoms for all, in accordance with the principles of universality, indivisibility and interdependence of human rights”.⁵ Hence, the consideration of human rights should guide educational efforts in formal and non-formal settings, both as a thematic component in relevant educational programmes and as a set of principles upon which the educational process should be built. “Teaching and learning practices and activities should follow and promote democratic and human rights values and principles”⁶ and empower individuals for the effective enjoyment of rights.

The UN Declaration on Human Rights Education and Training defines human rights education and training as “educational, training, information, awareness-raising and learning activities aimed at promoting universal re-

1 *The Universal Declaration of Human Rights*, Article 26 (2), at: <http://www.un.org/en/documents/udhr>.

2 Cf. *International Covenant on Economic, Social and Cultural Rights. Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with article 27, Article 13 (1)*, at: <http://www2.ohchr.org/english/law/cescr.htm>.

3 International Covenant on Civil and Political Rights, International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination against Women, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Rights of the Child.

4 See, for example, General Comment No. 13 by the Committee on Economic, Social and Cultural Rights, General Comment No. 3 by the Human Rights Committee, General Recommendations V and XIII by the Committee on the Elimination of Racial Discrimination, and others.

5 *United Nations Declaration on Human Rights Education and Training*, A/HRCRES/16/1, adopted by the Human Rights Council, 23 March 2011, Articles 1.1. and 1.2.

6 *Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education, Recommendation CM/Rec(2010)7 and explanatory memorandum*, Strasbourg, May 2010, at: <http://www.coe.int/t/dg4/education/edc/Source/Pdf/Downloads/6898-6-ID10009-Recommendation%20on%20Charter%20EDC-HRE%20-%20assembl%C3%A9.pdf>.

spect for and observance of all human rights and fundamental freedoms and thus contributing to, inter alia, the prevention of human rights violations and abuses by providing persons with knowledge, skills and understanding and developing their attitudes and behaviours, to empower them to contribute to the building and promotion of a universal culture of human rights”.⁷

HRE is a relatively new educational approach that initially only meant teaching human rights in formal school education. Over time, the concept evolved to address teaching not only to primary and secondary students, but also to people of different ages as well as different professional groups. HRE became more action-oriented than had initially been conceived.⁸ Human rights content and perspectives offered as part of HRE have been recognized within other educational approaches that are similar to HRE but have different focuses: peace education, conflict resolution education, multicultural education, development education, global education, civic education, and others.

Human Rights Education and ODIHR Programming

A significant number of thematic or issue-based programmes operating within ODIHR have always contained components of HRE. This was especially the case in the areas of anti-trafficking, improving the situation of Roma and Sinti, human rights in the fight against terrorism, rule of law, and other programmatic fields. The training of different stakeholders in human rights standards and mechanisms has become an important part of relevant programmes in ODIHR.

At the same time, there was general agreement on the need for HRE to become a separate programme within ODIHR with a clear and distinctive focus. The decision to create a new programme was made following the Supplementary Human Dimension Meeting (SHDM) dedicated to human rights education and training, which was organized by the OSCE Chairmanship and ODIHR in Vienna in March 2004.⁹ Recommendations made within this forum endorsed greater involvement of ODIHR in the areas of HRE in schools and for public officials, as well as in the area of non-formal HRE, and delineated the field of engagement for the future programme. SHDM participants also stressed the importance of linking up with other international assistance providers in the field of HRE, particularly the OHCHR and the CoE, which had devised comprehensive frameworks for HRE ac-

7 *United Nations Declaration on Human Rights Education and Training*, cited above (Note 5), Article 2.1.

8 Cf. Marcia Bernbaum/Nancy Flowers/Kristi Rudelius-Palmer/Joel Tolman, *The Human Rights Education Handbook*, at: www1.umn.edu/humanrts/edumat/hreduseries/hrhandbook.

9 OSCE, *Supplementary Human Dimension Meeting on “Human Rights Education and Training”, Final Report*, Vienna, 25-26 March 2004, ODIHR.GAL/33/04, 4 May 2004, at: <http://www.osce.org/odihr/31749>.

tion.¹⁰ The new programme started to support the efforts of the governments to implement the relevant OSCE commitments and the universal HRE framework, and to further enhance the quality of HRE in the OSCE area. The programme built on past experiences in human rights training for civil society¹¹ and activities designed to increase the capacity of OSCE field operations in HRE.

Relevant Commitments and Taskings

Unlike the UN or the CoE, the OSCE has no specific framework documents to guide the participating States and its institutions in the area of HRE. The work carried out by ODIHR in this field has therefore been based on various commitments adopted by the OSCE participating States. Most important, however, is the general mandate of ODIHR to assist participating States in implementing their commitments in the human dimension.¹² This mandated ODIHR to conduct HRE activities throughout the OSCE area, also at the request of state bodies.

Why is HRE important for OSCE as a security organization? HRE is the main tool for changing a society's perspectives and facilitating the transformation of a system of oppression and distrust into one in which human rights are at the centre of society's concerns. Such an approach diminishes the probability of conflicts inside the country and also limits the "aggressive potential" of such states.¹³ As William W. Burke-White noted,

[...] a human rights culture would reject international aggression as a threat to the human rights of citizens in other states. Second, institutionalization of human rights protections expands the ability of citizens to voice opposition to aggressive state policy through freedoms of belief, speech, and assembly. Third, institutionalization erodes the ability of the state to coerce its citizens into providing the resources and human capital necessary for aggressive war.¹⁴

10 At the level of the United Nations, there is a World Programme for HRE, and at the level of the Council of Europe, there is the Charter on Education for Democratic Citizenship and Human Rights Education, cited above (Note 6).

11 Especially on ODIHR's programme "Human Rights Monitoring Training" for civil society in Central Asia and the South Caucasus, which was carried out jointly with the Polish Helsinki Foundation between 2001 and 2003.

12 Cf. CSCE Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, Decisions, VI: The Human Dimension, 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: pp. 743-753.

13 William W. Burke-White, Human Rights and National Security: The Strategic Correlation, in: *Harvard Human Rights Journal*, Spring 2004, pp. 249-280, here: p. 273.

14 Ibid.

The main purpose of HRE is to build respect for the rights of others as well as the skills to deal with conflicts using non-violent means, which is an essential part of empowering an individual. A necessary element of HRE is a change in the behaviour of individuals, who learn to undertake action in pursuit of human rights-compliant policies. On numerous occasions, OSCE participating States have acknowledged the value of HRE and made it part of the OSCE commitments. These commitments can be divided into two groups: those that provide direction for ODIHR in the area of HRE, and general commitments that stress the significance of HRE in the OSCE.

The Helsinki Final Act (1975) affirmed the right of individuals to know their rights. Fifteen years later, in the OSCE's Copenhagen Document (1990), the participating States expressed their commitment to

[...] respect the rights of everyone, individually or in association with others, to study and discuss the observance of human rights and fundamental freedoms and to develop and discuss ideas for improved protection of human rights and better means for ensuring compliance with international human rights standards [...]¹⁵

The Moscow Document (1991) was the first OSCE document that explicitly mentioned human rights education, stressing its fundamental role and the importance of educating people on human rights and fundamental freedoms.¹⁶ The same document also stressed that “effective human rights education contributes to combating intolerance, religious, racial and ethnic prejudice and hatred, including against Roma, xenophobia and anti-Semitism”.¹⁷ Moreover, OSCE participating States have committed themselves to “encourage their competent authorities responsible for education programmes to design effective human rights related curricula and courses for students at all levels, particularly students of law, administration and social sciences as well as those attending military, police and public service schools”.¹⁸ The participating States have also agreed to disseminate information about the human dimension commitments to educators and to encourage co-operation in the field of human rights education within existing intergovernmental and non-governmental bodies.¹⁹ Furthermore, the Helsinki Document (1992) states that the OSCE participating States “will consider developing programmes to create the conditions for promoting non-discrimination and cross-cultural understanding which will focus on human rights education, grass-roots ac-

15 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, in: Bloed (ed.), cited above (Note 12), pp. 439-465, here: p. 447, para. 10.2; also available at: <http://www.osce.org/odihr/elections/14304>.

16 See 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 12), pp. 605-629, here: p. 624, para. 42.1; also available at: <http://www.osce.org/odihr/elections/143101>.

17 Ibid., para. 42.2.

18 Ibid., para. 42.3.

19 See *ibid.*, pp. 624-625, para. 42.4-42.6.

tion, cross-cultural training and research”.²⁰ The OSCE Strategy to Address Threats to Security and Stability in the Twenty-first Century encouraged the participating States to take on a stronger role in the field of HRE aimed at the younger generation, in order to build up understanding of the need for tolerance and the importance of reconciliation and peaceful coexistence.²¹

OSCE documents also place a special emphasis on the need for OSCE institutions – and ODIHR in particular – to engage in HRE. As early as 1992, when ODIHR had just been established, the OSCE participating States encouraged the Office to “facilitate co-operation in training and education in disciplines relevant to democratic institutions”.²² Other OSCE documents also task ODIHR with undertaking efforts in building the capacity of various stakeholders through human rights education.²³

The Slovenian Chairmanship of the OSCE in 2005 played a special role in promoting HRE, one of the areas it had made a priority activity. Among other accomplishments, it encouraged OSCE field operations to translate the educational tool *Our Rights* (based on the Convention on the Rights of the Child) into local languages for use in schools in a wide range of countries.²⁴

20 Helsinki Document 1992, cited above (Note 12), Decisions, VI: The Human Dimension, p. 749, para. 34.

21 Cf. OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century, in: Organization for Security and Co-operation in Europe, *Eleventh Meeting of the Ministerial Council, 1 and 2 December 2003*, MC.DOC/1/03, Maastricht, 2 December 2003, pp. 1-10, here: p. 7, para. 40. There are a number of other OSCE documents that do not mention HRE explicitly, but are essentially about it.

22 Prague Meeting of the CSCE Council, 30-31 January 1992, Prague Document on Further Development of CSCE Institutions and Structures, III. Human Dimension, para. 10, in: Bloed (ed.), cited above (Note 12), pp. 830-838, here: p. 831.

23 For example, in the OSCE Ministerial Council Decision on “Enhancing the OSCE’s Efforts to Combat Trafficking in Human Beings” (2000) the ministers undertake, “[...] to raise awareness, including with assistance from the ODIHR, non-governmental organizations and other relevant institutions, through, where necessary, establishing training programmes among public officials, including law enforcement, judiciary, consular and immigration officials, about all aspects of trafficking”, in: Organization for Security and Co-operation in Europe, *Eighth Meeting of the Ministerial Council, 27 and 28 November 2000*, MC.DOC/2/00, Vienna, 28 November 2000, p. 7-8, here: p. 8; the 2004 Action Plan for the Promotion of Gender Equality states: “The ODIHR will assist in the development and implementation of specific programmes and activities to promote women’s rights [...] particularly through education in gender awareness”, Annex to Decision No. 14/04, 2004 Action Plan for the Promotion of Gender Equality, MC.DEC/14/04 of 7 December 2004, in: Organization for Security and Co-operation in Europe, *Twelfth Meeting of the Ministerial Council, Sofia, 6 and 7 December 2004*, MC.DOC/1/04, 7 December 2004, pp. 38-53, here: p. 49; in the OSCE Ministerial Council Decision No. 5/06 on “Organized Crime”, the Ministerial Council tasks ODIHR “to consider facilitating training programmes [on criminal justice and organized crime]”, in: Organization for Security and Co-operation in Europe, *Fourteenth Ministerial Council, 4 and 5 December 2006*, Brussels, 5 December 2006, pp. 20-23, here: pp. 22-23.

24 The English version – “Our Rights. Information for Teachers” – is included in the “Partners’ Resources” section of section III, “Teaching and Learning Tools for the Classroom” of the tool *Human Rights Education in the School Systems of Europe, Central Asia and North America: A Compendium of Good Practice*, Warsaw 2009, at: <http://tandis.odihr.pl/documents/hre-compedium>.

According to the evaluation of the project,²⁵ approximately 10,000 children and 250 teachers participated in the pilot project in Albania, Azerbaijan, Bulgaria, Croatia, Germany, Ireland, the former Yugoslav Republic of Macedonia, Montenegro, the Russian Federation, Serbia, Slovenia, Turkey, and Ukraine. The resource became widely supported by OSCE's field operations and, in 2007, the author of this article participated in lessons based on this tool in a secondary school in Baku (Azerbaijan). The project was the first HRE project in the OSCE area to involve nearly all OSCE field operations, motivating many of them to engage in HRE work for young people.

The second important contribution of the Slovenian Chairmanship in the area of HRE was its support for the adoption of Ministerial Council Decision No. 11/05 on "Promotion of Human Rights Education and Training in the OSCE Area", the only OSCE document to date which is dedicated specifically to HRE.²⁶ In this decision, the OSCE participating States recognized that the "promotion of human rights through education and training in the whole OSCE area could be viewed in the context of the OSCE's comprehensive concept of security and is vital for the strengthening of respect for human rights and fundamental freedoms".²⁷ The decision encouraged the OSCE community to increase its efforts in co-operating with other international organizations and non-governmental organizations to take necessary measures aimed at promoting human rights education and training, with special emphasis on young people in the OSCE area.

Examples of ODIHR's Work in Human Rights Education

Activities of ODIHR's human rights education and training programme can broadly be divided into three categories: human rights training for civil society representatives; efforts to improve human rights teaching at the policy level, including the development of specific HRE tools; and support for quality HRE work by OSCE field operations.

Over the past ten years, human rights training for civil society has become one of ODIHR's trademarks. It started in 2001, when ODIHR, in co-operation with the Polish Helsinki Foundation, carried out long-term human rights-monitoring training projects for members of human rights NGOs in Central Asia and the South Caucasus. The programme consisted of largely theoretical (human rights and human rights monitoring techniques) and pure-

25 See Mitja Sardoč, *Evaluation of the OSCE Pilot Project on Human Rights Education "Our Rights" initiated by the Slovenian Chairmanship of the OSCE in 2005 Final Report*, Educational Research Institute, 15 March 2006, at: http://www.mzz.gov.si/fileadmin/pageuploads/Zunanja_politika/Evaluation_Report_Final_15.3.2006.pdf.

26 Decision No. 11/05, Promotion of Human Rights Education and Training in the OSCE Area, MC.DEC/11/05 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. 40-41, here: p. 40.

27 Ibid.

ly practical parts (the monitoring of human rights issues and report writing). It created a new generation of dedicated human rights defenders and civil society leaders who are still among ODIHR's principal civil society counterparts in their respective countries.

In 2004, ODIHR's newly-established human rights education and training programme ran a series of long-term human rights monitoring and advocacy training projects for civil society organizations, such as a training project on the monitoring of human rights in places of detention for NGOs from Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan, with the participation of a few representatives of relevant governmental offices from these same states. The key element of the project's success that was identified by everyone during the evaluation period comprised the practical components of the project – the group conducted study monitoring visits to pre-trial detention centres in Almaty and carried out small monitoring projects (with participants from Kyrgyzstan and Kazakhstan). The visits to detention facilities in Almaty were prepared adequately in advance and a debriefing was held after the visits took place. One of the local monitoring projects in Kyrgyzstan was managed by Azimjan Askarov, a human rights defender from Kyrgyzstan, who monitored the pre-trial detention centre in Bazar-Korgon and became one of the most respected activists in the south of Kyrgyzstan.²⁸ The project increased the professionalism of civil society in the Central Asian states in monitoring the closed institutions and improved the understanding of the need to open up penitentiary systems to public control.

From 2006 to 2008, ODIHR supported civil initiatives in the regions of Armenia and Tajikistan to create strong, dedicated and sustainable human rights NGOs involved in the monitoring of their states' commitments to human rights and to advocate action to address human rights problems at community level. ODIHR supported several monitoring projects by the participants. Separate training on how to develop human rights NGOs strategically was added to the training schedule in order to strengthen the capacity of existing NGOs and provide motivation for the creation of new human rights groups. As a follow-up to these national projects, ODIHR conducted two training-of-trainers events – in 2006 and 2008 – for a mixed group of Armenian and Tajik participants. Training-of-trainers events became an enriching intercultural experience for the participants – many travelled abroad for the first time in their lives and spent time with people of different cultures and religions. Alumni of the project are still working as human rights trainers and experts in their own countries.

28 In 2010, Askarov was sentenced to life imprisonment as an accessory to the murder of a police officer in June 2010. His appeal against the sentence is still being reviewed by the Supreme Court of the Kyrgyz Republic. ODIHR monitored the trial and raised concerns about the fairness of the process. Human rights activists from within Kyrgyzstan and from outside the country believe that Mr Askarov's sentence was in retaliation for his activities as a human rights defender.

From 2007 to 2010, ODIHR carried out a training project for Belarusian civil society representatives, secondary school teachers, and university lecturers to improve teaching about human rights in formal and non-formal educational settings, focusing on both the content and methodology of HRE. At a later stage, the training programme was expanded, and civil society organizations were trained in the development of civic participation and advocacy campaigns to promote human rights at local level. At the same time, ODIHR supported the development of the manual *Teaching Human Rights in School and Beyond*²⁹ as well as the handbook *Protecting and promoting human rights through civic participation*,³⁰ which were written by Belarusian experts and based on the Belarusian context. The manual, which was printed in Russian and Belarusian, contains a set of detailed lesson plans on human rights topics. It also includes a section on interactive methods of teaching and texts from international human rights documents. The manual was field-tested in Belarus and incorporates feedback from the Belarusian educational authorities. The handbook, which is also available in Russian and Belarusian, provides step-by-step guidance for teaching about how to initiate civic actions in schools and universities or in non-formal education to promote human rights at community level.

The Compendium and Further Challenges

At the end of 2005, Ministerial Council Decision No. 11/05 also tasked ODIHR “to produce a compendium of best practices for participating States on enhancing the promotion of human rights education and training, including the promotion of tolerance, mutual respect and understanding, and non-discrimination in the OSCE area”.³¹ With the Council of Europe, UNESCO, and the OHCHR joining the project, it became a unique endeavour by major international organizations involved in HRE. Work on the development of the resource *Human Rights Education in the School Systems of Europe, Central Asia and North America: A Compendium of Good Practice*³² started in 2007 and took almost two years to complete. The NGO Human Rights Education Associates became the principal implementing agency for all stages of the project; it reached out with a call for submissions, defined the selection stages and organized the actual writing of the entries. A “good practice” was

29 Ihar Kuzminich, *Navuchanne pravam chalaveka ŭ shkole i pa-za ěi* [Teaching Human Rights in School and Beyond], Warsaw 2010, at: <http://3sektar.by/library/navuchanne-pravam-chalaveka-u-shkole-i-pa.html>.

30 Ihar Kuzminich/Vitaut Rudnik, *Adstoivanne i pashyrenne pravoŭ chalaveka praz hramadski ūdzal* [Protecting and promoting human rights through civic participation], Warsaw 2010, at: <http://3sektar.by/library/adstoyvanne-i-pashyirenn-pravou-chalav.html>.

31 Ministerial Council Decision No. 11/05, cited above (Note 26), p. 41.

32 *Human Rights Education in the School Systems of Europe, Central Asia and North America: A Compendium of Good Practice*, cited above (Note 24). The term “Compendium” will be used forthwith.

defined as a strategy resulting in the successful teaching and learning of human rights values and competencies that could be demonstrated through a learning activity, a methodological tool, an audio-visual resource or a documented programme design intended for the formal education sector. “HRE” was defined broadly to include education for democratic citizenship and education for mutual respect and understanding, which are all based on internationally agreed human rights standards.³³ The practices were organized into five areas of action: laws, guidelines and standards; approaches and practices to improve the learning environment; teaching and learning tools for the classroom; professional development for educators and other adults; and evaluation and assessment approaches.³⁴

ODIHR received 237 practices from OSCE participating States and ultimately selected 101 practices from 38 countries.³⁵ The majority of practices came from Western Europe and North America as these countries were “the HRE pioneers” at a time when it was not possible to engage in HRE in Eastern Europe and the countries of the former Soviet Union. Translated into Russian³⁶ and French,³⁷ the Compendium became one of the most popular resources accessible through ODIHR’s TANDIS website. In 2011, two workshops – in Turkmenistan and Kyrgyzstan – were conducted on the Compendium; more workshops are planned in 2012.

In Central and Eastern Europe, ODIHR has supported national and regional strategies for strengthening HRE in the schooling sector. In April 2009, the regional forum “Human Rights Education: Achievements, Lessons Learned and Perspectives” in Vilnius was held jointly with the Ministry of Education and Science of the Lithuanian Republic. The discussions at the forum were based on country reports, drafted in advance of the meeting by independent HRE experts, on the situation with regard to HRE in schools in Belarus, Latvia, Lithuania, Moldova, Poland, the Russian Federation, and Ukraine. The forum brought together HRE professionals to discuss regional trends and recommendations to help improve the quality of HRE.

In Istanbul in 2010, ODIHR organized a workshop called “Moving Towards Human Rights Education Standards” for a group of human rights edu-

33 Cf. *Compendium*, p. 9.

34 The areas of action follow the Plan of Action for the first phase of the World Programme for Human Rights Education, at: <http://www.ohchr.org/Documents/Publications/PAActionEducationen.pdf>.

35 Practices from the following countries are represented in the Compendium: Albania (1 practice), Armenia (1), Austria (3), Belarus (2), Belgium (3), Bosnia and Herzegovina (2), Bulgaria (1), Canada (6), Croatia (2), Czech Republic (3), Denmark (1), Estonia (2), France (3), Georgia (1), Germany (6), Greece (1), Ireland (3), Italy (2), Lithuania (1), the former Yugoslav Republic of Macedonia (1), Moldova (2), Netherlands (6), Norway (1), Poland (2), Portugal (2), Romania (1), Russian Federation (5), Serbia (1), Slovakia (1), Slovenia (3), Spain (3), Sweden (2), Switzerland (1), Tajikistan (1), Turkey (2), Ukraine (2), United Kingdom (5), and United States (15). The Compendium also includes one practice from Kosovo.

36 At: <http://tandis.odihr.pl/documents/hre-compedium/rus>.

37 At: http://www.ohchr.org/Documents/Publications/CompendiumHRE_fr.pdf.

cators, many of whom had been participants in the Vilnius Forum. The workshop became the first stage in the development of three guidelines on HRE: for law enforcement officials, for public health professionals (as a category of civil servants), and for secondary school systems, as well as recommendations on HRE for human rights activists. The guidelines and recommendations – once finalized – will set benchmarks for quality human rights education programming and may become an effective evaluation tool for practitioners and policymakers. The practical value of the guidelines and recommendations was stressed by the majority of HRE professionals at the Istanbul workshop, something that serves as a motivational factor for the finalization of the documents.

The final type of activity carried out by ODIHR in the area of HRE is support for the work of OSCE field operations. Field missions often lack the expertise to ensure that HRE activities are effective. ODIHR has therefore organized regular meetings for field staff that deal with HRE for different professional groups and for young people. Workshops held in 2005 and 2010 provided an opportunity to discuss and share concrete experiences and to address challenges and needs for the further development of HRE activities. The workshops demonstrated that OSCE field operations expect ODIHR to be more active in the field of HRE and, in particular, recommended that the Office should serve as a “training house” for project managers within field operations, a resource centre for human rights materials and good practices, and a dynamic partner in implementing projects at national and regional level. Such demands, however, require increased ODIHR capacity in this field.

Another significant challenge is a lack of institutionalized policy approaches to evaluation. Recognizing that only quality work can bring about change on the part of the HRE beneficiaries, evaluation clearly stands out as the tool that has to be used more effectively by ODIHR. Institutionalized evaluation will enable ODIHR to measure and demonstrate the transformative effect of HRE and its power in effecting social change.³⁸

A third challenge is that HRE has rather limited visibility at political level in the OSCE, despite the fact that the Organization has long endorsed human rights education in its body of commitments. One of the reasons for this is the very nature of HRE, which rarely produces immediate results: It is often very difficult to benchmark activities and determine progress quickly or to attribute impact to particular educational programmes. ODIHR’s contribution to HRE is also related to efforts to raise political awareness among governments and in civil society in order to increase the effectiveness of international assistance in this regard.

38 See, for instance, Office of the High Commissioner for Human Rights/International Centre for Human Rights Education, *Evaluating Human Rights Training Activities. A Handbook for Human Rights Educators*, OHCHR Professional Training Series No. 18, Montreal 2011, at: <http://www.ohchr.org/Documents/Publications/EvaluationHandbookPT18.pdf>.

Conclusion

ODIHR is uniquely placed to influence the quality of HRE, and with it the respect for human rights in the OSCE area. In these endeavours, the Office will need to partner with national education authorities.³⁹ While all governments publicly declare their support for human rights education, not all of them are ready to invest in HRE to the extent necessary to empower their citizens to actively and effectively claim human rights. Many governments also fail to see the obvious: A human rights culture can be inculcated only where educational systems themselves are based on human rights principles and norms. It is therefore crucial to make HRE activities effective and to continue supporting governments and civil society in providing quality human rights education.

39 “States have the primary responsibility to promote and ensure human rights education and training”, *United Nations Declaration on Human Rights Education and Training*, cited above (Note 5) Article 7.

ODIHR and Civil Society: 20 Years of Promoting Human Rights in the OSCE Area

Introduction

Ever since its creation as the CSCE, the OSCE has insisted on and nurtured a strong relationship with civil society, particularly with non-governmental organizations (NGOs) working on human rights. In the 1990s, with the collapse of communist state systems in Eurasia, the challenges and opportunities that the CSCE was presented with underwent a radical transformation. Along with the UN, the Council of Europe, and the European Union and concomitant new structures and field missions, the Organization has been involved in reconstruction in the Western Balkans and the process of democratization in the former Soviet Union. These and subsequent processes and projects would have been unthinkable without the active participation of civil-society organizations throughout the OSCE area.

It was the dissident thinkers and activists of Eastern Europe, in fact, who returned the very concept of civil society to academic and policy discourse, making it “a mantra for everyone from presidents to political scientists” both in the rapidly liberalizing societies of Eastern Europe and in the West, where civil society was seen as the symbol of “social renewal”, and “a key element of the post-cold-war zeitgeist”.¹ The indispensability of civil society’s role to the processes of democratic institution-building and the protection of human rights and fundamental freedoms was enshrined in key OSCE documents of that time, such as the Copenhagen (1990), Paris (1990), Moscow (1991), Helsinki (1992), and Istanbul (1999) Documents. However, over the last decade, political changes in the OSCE and transnational challenges to peace and security have raised questions as to whether the momentum behind the concept of civil society as a key contributor to the protection of human rights and fundamental freedoms can be maintained.

This article will explore civil society’s integral role in the system of international human rights protection, focusing on the OSCE and, specifically, ODIHR’s relationship with human rights NGOs.

Note: The views expressed in this contribution are the authors’ own and not necessarily those of OSCE/ODIHR.

- 1 Thomas Carothers, Think Again: Civil Society, in: *Foreign Policy*, Winter 1999/2000, pp. 18-29, available at: <http://www.carnegieendowment.org/pdf/CivilSociety.pdf>.

Given its diversity of forms and activities, civil society remains an elusive concept. It can be defined as “a realm between the economic, public and private spheres where individuals are free to form and join organizations that function independently but can mediate between individuals and the state”.² More broadly, as a bridge between the individual and the state, civil society:

comprises individuals and groups, organized or unorganized, interacting socially, politically and economically, regulated by formal and informal rules and laws. They include trade unions; non-governmental organisations; gender, language, cultural and religious groups; charities; business associations; social and sports clubs; cooperatives and community development organisations; environmental groups; professional associations; academic and policy institutions; and media outlets.³

This article will focus on the specific segment of civil society that promotes human rights. Non-governmental status implies that such organizations are composed generally of individuals outside direct governmental influence.⁴ The approach to civil society participation as espoused by the OSCE participating States is reflective of the principle that “NGOs are essential to participatory democracy in the international community”.⁵ This participation, complementary to and not in competition with representative democracy, contributes to greater effectiveness and improved legitimacy for governments.⁶ It is indispensable to the realization of human rights. In fact, it is a widely held view that the international human rights system “would quite simply cease to function without the NGOs”.⁷

Essentially, the system is a combination of legally binding and non-binding instruments and mechanisms. Human rights courts, such as the Inter-American Court of Human Rights (IACtHR) and the European Court of Human Rights (ECtHR), provide judicial remedies. Quasi-judicial bodies undertake periodic scrutiny of governments by means of reports that the gov-

2 Lesley C. Hodgson, *Helping the Salmon: The Role of Civil Society in the Development of Human Rights*, in: *Journal of the Institute of Justice and International Studies* 5/2005, pp. 11-24, here: p. 12.

3 UNDP, *Governance for Sustainable Human Development*, 1994, available at: <http://mirror.undp.org/magnet/policy/chapter1.htm>.

4 Cf. Kiyoteru Tsutsui/Christine Min Wotipka, *Global Civil Society and the International Human Rights Movement: Citizen Participation in Human Rights International Nongovernmental Organizations*, in: *Social Forces* 2/2004, pp. 587-620, here: p. 591.

5 Dianne Otto, *Nongovernmental Organizations in the United Nations System: The Emerging Role of International Civil Society*, in: *Human Rights Quarterly* 1/1996, pp. 107-141, here: p. 112.

6 Cf. Olivier De Schutter, *Europe in Search of its Civil Society*, in: *European Law Journal* 2/2002, pp. 198-217, here: pp. 200-202.

7 Rachel Brett, *The Role and Limits of Human Rights NGOs at the United Nations*, in: *Political Studies* 1/1995, pp. 96-110, here: p. 100.

ernments produce pursuant to their treaty obligations. Finally, mechanisms such as UN Charter-based bodies or OSCE Human Dimension Implementation Meetings (HDIM) enable monitoring and review of the governments' implementation of human rights standards on a voluntary basis.

With the exception of human rights courts, the remaining instruments and mechanisms hinge on the information provided by governments and their own acknowledgment of human rights violations when such events occur – a major shortcoming of the system. “The greatest myth of human rights implementation – breathtaking in its naivety – is the idea that by receiving a report from the government concerned, an international body could ascertain the degree of compliance of that country with its international legal human rights obligations.”⁸ As insiders have been willing to admit, “governments lie”.⁹

The participation of NGOs in the international human rights system is therefore a *conditio sine qua non* for the efficacy of that very system. This is the case from both a conceptual and a practical standpoint.

Indispensable Conceptually

From a conceptual standpoint, participation is first and foremost a fundamental human right in itself.¹⁰ It implies the involvement of rights holders who are the intended beneficiaries of human rights regimes. Without their involvement, the realization of human rights would not be meaningful. Effective participation can be achieved only if individuals “know and act upon” their human rights;¹¹ it is the cause and effect of the empowerment of rights holders.

In fact, participation is part and parcel of subsidiarity, which according to Paolo Carozza is a structural principle of international human rights law. In his view, “the principal advantage of subsidiarity [...] is that it integrates international, domestic and subnational levels of social order on the basis of a substantive vision of human dignity and freedom, while encouraging and protecting pluralism among them”.¹² The validity of the subsidiarity argument is corroborated in at least two respects. First, more broadly, subsidiarity implies that action is taken at international level only if the objectives of that action

8 Ibid., p. 101.

9 Ibid..

10 Cf. *Universal Declaration of Human Rights* (UDHR), Article 21; *International Covenant on Civil and Political Rights* (ICCPR), Article 25; *American Convention on Human Rights* (ACHR), Article 23; *UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities* (UNDM), Article 2; *Framework Convention for the Protection of National Minorities* (FCNM), Article 15; *OSCE Copenhagen Document 1990*, para. 10.

11 *Helsinki Final Act 1975*, p. 7.

12 Paolo G. Carozza, *Subsidiarity as a Structural Principle of International Human Rights Law*, in: *The American Journal of International Law* 2003, pp. 38-79, here: 40.

cannot be achieved sufficiently at local level; and only if the international level is better placed to undertake the action, which, in turn, should not go beyond what is necessary to achieve the objective.¹³ Action at local level, by definition, requires participation.

Second, within the human rights context, subsidiarity manifests itself in a degree of discretion over the interpretation and implementation of rights.¹⁴ This discretion is evident in several features of international human rights. One is the requirement that effective domestic remedies should be exhausted before international bodies are approached. The core element of this concerns more than just the avoidance of costly and time-consuming international litigation. “The rationale behind the customary rule on the prior exhaustion of domestic remedies is that there is no point in bringing the claim on the international plane if there is a chance it can be settled at the domestic level, by municipal courts that may be better placed to appraise the facts and apply national law.”¹⁵ Or, in the words of the ECtHR:

The rule is based on the assumption [...] that there is an effective remedy available in respect of the alleged breach in the domestic system whether or not the provisions of the Convention are incorporated in national law. In this way, it is an important aspect of the principle that the machinery of protection established by the Convention is subsidiary to the national systems safeguarding human rights.¹⁶

Another feature is the margin of appreciation doctrine. An invention of the European human rights regime, the margin of appreciation is based on the premise that states are entitled to a degree of latitude in balancing individual rights and state obligations, allowing in practice for differences and disparities in the practical interpretation of human rights norms. This is based on the understanding that national authorities are in a better position than international judges to assess the concrete circumstances of a case. The scope of the margin varies depending on circumstances, subject matter and conflicts emerging from diverse social, political, cultural, and legal traditions of state actors.¹⁷ The third feature is a certain normative under-determination of international human rights law, described as “incapacity to specify in sufficiently determinate ways the content of its requirements”.¹⁸ The open-ended lan-

13 Cf. Paul Craig/Grainne de Burca, *EU Law. Text, Cases and Materials*, Oxford 2008, p. 103.

14 Cf. Carozza, cited above (Note 12), pp. 57-58.

15 Antonio Cassese, *International Law*, Oxford 2005, p. 122.

16 ECtHR, *Akdivar a.o. v. Turkey*, Application No. 21893/93, Judgment of 16 September 1996, para. 65.

17 Cf. Claire Ovey/Robin C.A. White, *The European Convention on Human Rights*, Oxford 2006, pp. 52-55; Onder Bakircioglu, *The Application of the Margin of Appreciation Doctrine in Freedom of Expression and Public Morality Cases*, in: *German Law Journal* 7/2007, pp. 711-712.

18 Carozza, cited above (Note 12), p. 58.

guage of international human rights norms and, indeed, the framework nature of instruments requires their local contextualization and interpretive pluralism.

This is not to engage in a theoretical discussion about the universality of human rights versus cultural relativism.¹⁹ Human rights are indisputably “universal, indivisible, interdependent and interrelated”.²⁰ As for the interpretation of human rights treaty provisions, they are to be interpreted in good faith and in the light of a treaty’s object and purpose.²¹ This implies that, while the states have a degree of discretion to decide on *how* best to apply international human rights standards to their national contexts, they do not have the authority to determine *whether* these standards are applicable.

More specifically, while education in minority languages, for example, is a human right,²² the specific form in which this right will be realized must be decided by the state, with the participation of the concerned rights holders. This right might be realized by means of separate educational institutions in the minority language, through bilingual school curricula, by providing only for the teaching of the minority language and culture, or in some other adequate way. Likewise, international human rights standards provide for the right to vote and to be elected in genuine periodic elections;²³ the choice of electoral system to enable the realization of this right, however, rests with the states. It is the discussion that precedes these choices and the monitoring of their implementation, once the choices have been made, that make the realization of human rights meaningful. The participation of NGOs is indispensable to this process.

The necessity of NGO participation well beyond the original provision of Article 71 of the UN Charter has been recognized: in the legal provisions of human rights treaties; in the established practice of treaty bodies and special procedures; in the General Assembly resolution on the Human Rights Council; and in OSCE commitments.

As early as 1966, reference to organizations and movements was included in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).²⁴ The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) take a slightly opaque approach: They

19 For an attempt at reconciliation of cultural relativism with universal human rights, see Jack Donnelly, Cultural Relativism and Universal Human Rights, in: *Human Rights Quarterly* 7/1984, pp. 400-419.

20 World Conference on Human Rights, *Vienna Declaration and Programme of Action*, UN Doc. A/CONF.157/23, 12 July 1993, para. 5.

21 *Vienna Convention on the Law of Treaties*, Article 31.

22 ICCPR Article 27, FCNM Article 14, *OSCE Copenhagen Document 1990*, para. 34.

23 UDHR Article 21, ICCPR Article 25, ECHR Article 3 of Protocol 1, ACHR Article 23, *OSCE Copenhagen Document 1990*, para 7.

24 ICERD, Article 2.1.(e): “Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races [...]”

refer to “reliable information” supplied by sources other than state parties.²⁵ The Optional Protocol to the Convention against Torture (OPCAT), on the other hand, is explicit in that the Subcommittee on Prevention and the national preventive mechanisms must co-operate with organizations working against torture²⁶ and hold interviews with persons who may have relevant information,²⁷ and that these persons and organizations must be protected from any reprisals for having communicated with the Subcommittee.²⁸

The working methods or rules of procedure of all UN human rights treaty bodies provide for NGOs to submit relevant information to the respective committees. The committees, moreover, set aside time in the sessions during which NGO representatives can provide information orally. Similarly, the Human Rights Council is also required to work in close co-operation with civil society²⁹ within the framework of the Universal Periodic Review, which is designed to ensure the participation of all relevant stakeholders, including NGOs.³⁰

Regional treaty bodies, such as the Advisory Committee to the Framework Convention for the Protection of National Minorities of the Council of Europe, have adopted similar practices. The Advisory Committee regularly considers alternative reports provided by NGOs and holds meetings with NGO representatives during its visits to individual countries. The participation of civil society is, moreover, a legal requirement for the European Union. The Treaty on European Union (TEU), for example, not only safeguards the right of EU citizens to participate “in the democratic life of the Union”,³¹ but also places an obligation on EU institutions to give “citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action”.³²

Indispensable in Practical Terms

In practical terms, NGO participation sustains the international human rights system. It has been said of the UN human rights regime that it depends on NGOs to such an extent that “it would collapse without their information”.³³ This sentiment has been echoed more than once by human rights officers at treaty body secretariats, whether at the UN or at regional bodies, especially

25 CAT, Article 20; CEDAW OP, Article 8.

26 OPCAT, Article 11 (c).

27 OPCAT, Article 14 (d), Article 20 (d).

28 OPCAT, Article 15.

29 UN General Assembly, Resolution 60/251, A/RES/60/251, 3 April 2006, para. 5.h.

30 UN Human Rights Council Resolution 5/1, A/HRC/5/21, 18 June 2007, para. 3.m.

31 TEU, Article 10.3.

32 TEU, Article 11.

33 Michael H. Posner/Candy Whittome, The Status of Human Rights NGOs, in: *Columbia Human Rights Law Review* 1993-1994, pp. 269-290, here: p. 284.

once NGO shadow reports stop coming in after funding cycles for major NGO human rights advocacy programmes have come to an end.

The contribution by NGOs, however, goes far beyond the submission to treaty bodies of shadow reports and their scrutiny of information provided by states. They conduct awareness-raising campaigns – targeting the public and governmental authorities alike – clarify rights and obligations, and disseminate information. By providing human rights education, they increase awareness of human rights, thereby helping government officials to perform their duties better and empowering rights holders to demand the effective realization of their rights. Through advocacy activities at international level, they contribute to standard-setting, developing alliances with sympathetic states which, left to their own devices, would operate in a vacuum.³⁴ Through domestic advocacy, they give content and meaning to human rights at grass-roots level. By conducting strategic litigation, they attempt to bring about change by legal means. The interplay of international and local NGOs is crucial in this regard.

Examples of NGO contributions are manifold. The role of the International Commission of Jurists and Amnesty International in the development and adoption of the Declaration and Convention against Torture, also in pushing for the concept of universal criminal jurisdiction in relation to alleged perpetrators of torture, has been well documented. That of the NGO coalition that took part in the drafting in the Convention of the Rights of the Child and the subsequent Optional Protocol has been described as “without parallel in the history of drafting international instruments”.³⁵

In the area of equality and non-discrimination, NGOs were instrumental in pushing for the adoption of the EU anti-discrimination directives in 2000, following the astonishing success of the far right in the Austrian general election and the political pressure – at international level – to take some form of action. It was NGOs, again, who then took up the newly-adopted legislation and instigated court proceedings, breaking new ground in the field of anti-discrimination.

A leader in this regard has been the European Roma Rights Centre, whose strategic litigation before the ECtHR made an unparalleled contribution to the development of jurisprudence on Article 14 of the Convention.³⁶ Similarly, Minority Rights Group International successfully brought the first case under the Convention’s anti-discrimination Protocol 12.³⁷

34 Cf. *Ibid.*, p. 284.

35 Brett, cited above (Note 7), pp. 100-101.

36 Landmark cases have included *D.H. and Others v. the Czech Republic*, Application No. 57325/00, *Šečić v. Croatia*, Application No. 40116/02, *Moldovan and Others v. Romania*, Applications Nos. 41138/98 and 64320/01.

37 Case of *Sejdić and Finci v. Bosnia and Herzegovina*, Applications Nos. 27996/06 and 34836/06. The case originated in separate applications by two citizens of Bosnia and Herzegovina, Dervo Sejdić and Jakob Finci, on 3 July and 18 August, respectively.

That human rights NGOs are indispensable actors in the system of international human rights protection has been acknowledged, though not in very explicit terms, ever since the Charter of the United Nations was adopted. While it may have very well been the case that the governments comprising the United Nations considered human rights to be a subject of legitimate international concern that would remain the exclusive prerogative of governments alone,³⁸ Article 71 of the UN Charter provided for the Economic and Social Council to "make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence".³⁹

As the international instruments and mechanisms for the protection and promotion of universal human rights slowly and painstakingly evolved under the auspices of the UN, a non-governmental human rights advocacy movement developed, comprising civil society groups large and small without whom this evolution would not have been possible. The development of non-governmental human rights advocacy is said to have occurred in two phases: First, international human rights NGOs were established in the 1960s and 1970s in the global north and focused their attention on issues in the global south; second, the number of national human rights groups has burgeoned in virtually all regions of the world over the past two decades.⁴⁰ Indeed, the relationship is symbiotic: NGOs, as champions of human rights instruments, helped to ensure the effective realization of human rights. At the same time, they are very much underpinned by human rights themselves, because provisions on rights such as freedom of expression, assembly, and association create the necessary preconditions for the NGOs to thrive.⁴¹

The participation of NGOs in the evolution of the international human rights regime, as it unfolded within the UN framework, was hindered not only by the restrictive approach envisaged by the Charter but also by the limitations imposed by initial resolutions of the UN Economic and Social Council (ECOSOC), which spelt out the arrangements for consultations between the Council and NGOs.⁴² To be granted consultative ECOSOC status, an organization had to be of "recognizable international standing" and "covering, where possible, a substantial number of countries in different regions of the world".⁴³

National organizations were expected to present their views through the respective international NGOs and were supposed to be admitted on their

38 Cf. Posner/Whittome, cited above (Note 33), p. 269.

39 *Charter of the United Nations*, Article 71.

40 Cf. Posner/Whittome, cited above (Note 33), pp. 269-270.

41 Cf. Hodgson, cited above (Note 2), p. 13.

42 UN Economic and Social Council (ECOSOC) *Resolution 288 B (X)*, 27 February 1950, superseded by *ECOSOC Resolution 1296 (XLIV)*, 23 May 1968.

43 *ECOSOC Resolution 1296 (XLIV)*, 23 May 1968, Part I, para.4.

own merits “after consultation with the Member State concerned in order to help achieve a balanced and effective representation of non-governmental organizations reflecting major interests of all regions and areas of the world or where they have special experience upon which the Council may wish to draw”.⁴⁴ In practice, such an arrangement favoured NGOs with resources which were able to attain a recognizable international standing in a substantial number of countries, at the expense of comparatively small and under-resourced organizations, for whom “Geneva” remained a distant geographical concept. This shortcoming was not rectified until 1996, when eligibility was broadened to include “regional, subregional and national organizations”.⁴⁵

The fact that the early years of NGO participation at UN human rights forums were characterized by “cold war paranoia about the political allegiances that some NGOs, particularly those with a human rights orientation, were perceived to have with states on either side of the East-West divide”⁴⁶ is not surprising. Despite the fact that the resolution applicable at the time did not contain such provisions, consultative status was occasionally withdrawn as a result of efforts by member states, among them the United Kingdom and the United States, who were unhappy with NGO criticism of their policies.⁴⁷ While NGO participation at the UN forums was constrained by ECOSOC status, the OSCE – despite discussions of varying frequency and intensity to the contrary – remained open to all who were prepared to register, bar those who “resort to the use of violence or publicly condone terrorism or the use of violence”.⁴⁸ Unlike what initially may have been regarded as an elitist approach on the part of the UN – which for a long time favoured the participation of northern international human rights NGOs – the OSCE’s approach has been significantly more inclusive in this regard.

The OSCE has recognized the significance of civil society participation since the start of the Helsinki process: In 1975, participating States confirmed that “organizations and persons have a relevant and positive role to play in contributing toward the achievement of these aims of their co-operation”.⁴⁹ There is general consensus that the Helsinki Final Act provided the impetus for the development of NGOs – independent groups of citizens concerned with the monitoring of human rights principles.⁵⁰

In 1985, access to further CSCE meetings, alongside the opening and closing sessions, was allowed, although NGOs had been involved even earlier by organizing their own “parallel events”.⁵¹ To enable NGO interven-

44 Ibid., Part II, para. 9.

45 *ECOSOC Resolution 1996/31*, 25 July 1996, Part I, para. 9.

46 Otto, cited above (Note 5), p. 110.

47 Cf. *ibid.*, p. 117.

48 *Helsinki Document 1992*, Part IV, para. 16.

49 *Helsinki Final Act 1975*, Chapter IX.

50 Cf. Rachel Brett, NGOs and the Human Dimension of the OSCE, in: *CSCE ODIHR Bulletin* 1/1992-1993, pp. 3-8; Shaun R. Barcavage, NGOs in the System of European Security, in: *CSCE ODIHR Bulletin* 1/1996-1997.

51 Brett, cited above (Note 50), p. 5.

tions at CSCE meetings, some governments included NGO representatives in their delegations, a practice maintained by governments to both the West and the East of Vienna.⁵² The turning point in the relationship between NGOs and the CSCE is said to have been the 1990 Charter of Paris, which established for the first time that “organizations, groups and individuals must be involved in an appropriate way in the activities and new structures of the CSCE”.⁵³ Well beyond allowing participation at OSCE forums, OSCE commitments also foresee that the individual should have the right to know and act upon human rights and fundamental freedoms and contribute actively, either individually or in association with others, to their promotion and protection. The Copenhagen Document, in fact, commits OSCE States to

ensure that individuals are permitted to exercise the right to association, including the right to form, join and participate effectively in non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms, including trade unions and human rights monitoring groups.⁵⁴

Members of such groups and organizations are to have “unhindered access to and communication with similar bodies within and outside their countries and with international organizations, to engage in exchanges, contacts and co-operation with such groups [...]”.⁵⁵ Within the OSCE, the enthusiasm for NGO participation carried on for a while longer. In Moscow in 1991, the participating States recognized the essential role of the active involvement of persons, groups, organizations, and institutions in ensuring continuing progress in the fulfilment of their human dimension commitments. They welcomed “NGO activities, including, *inter alia*, observing compliance with CSCE commitments in the field of human dimension”, and allowed them “to convey their views to their own governments and the governments of all the other participating States during the future work of the CSCE on the human dimension”.⁵⁶ Perhaps most important was the definition of NGOs adopted by participating States as “those which declare themselves as such, according to existing national procedures”.⁵⁷

In Helsinki in 1992, the framework for NGO involvement in CSCE activities was strengthened further, specifying guidelines for NGO access to CSCE forums, instructing heads of institutions to designate “NGO liaison persons”, and promoting contacts, exchanges and informal meetings between NGOs and authorities, along with other similar prescriptions. In comparison to the UN system at the time, participation was not limited to organizations of

52 Cf. *ibid.*, p. 6.

53 *Charter of Paris 1990*, p. 12 (“Non-governmental Organizations”).

54 *OSCE Copenhagen Document 1990*, para. 10.3.

55 *Ibid.*, para 10.4.

56 *Moscow Document 1991*, para. 43.4.

57 *Ibid.*, para. 43.

“recognizable international standing”, as required by the ECOSOC status rule, but remained open to all NGOs “who declared themselves as such”. The issue of the consultative status requirement came under consideration and remains a topic for discussion to this day, but no consensus on terms that would ultimately curtail NGO participation at OSCE forums is imminent.

ODIHR's Contribution: Partnership and Support

Following the dissolution of the Soviet Union in 1991, many new participating States were admitted to the CSCE.⁵⁸ Acknowledging this sweeping political transformation of Europe and the need to strengthen CSCE institutions and structures, the Office for Free Elections was transformed into the Office for Democratic Institutions and Human Rights (ODIHR) “in order to extend practical co-operation among participating States in the human dimension”.⁵⁹ The Office’s new functions included providing “the institutional framework for sharing and exchanging information on available technical assistance, expertise, and national and international programmes aimed at assisting the new democracies in their institution-building”, and “establish[ing] contacts with non-governmental organizations active in the field of democratic institution-building, with a view to enabling interested participating States to make use of their extensive resources and expertise”.⁶⁰

After the adoption of the Prague Document and in response to the new political realities, ODIHR started to pursue multiple activities, based on its expanded mandate, that aimed to “develop, educate and empower civil society” while “increasing rule of law capacities, enhancing accountability and transparency of governmental institutions” and “targeting several key groups”, such as the younger generation, the legal community and academia.⁶¹

In the field of basic human rights, ODIHR provided support to NGOs and trained them in standards and principles to give “individuals more confidence and ability in standing up for the respect of those rights”.⁶² Building on the existing network of experienced civil society experts, ODIHR supported

58 At an additional meeting at ministerial level in Moscow in 1991, the three Baltic states were admitted; the Prague Document 1992 marked the accession of ten more states: Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Ukraine and Uzbekistan. Later, in March 1992, three more – Croatia, Georgia, and Slovenia – were admitted as participating States at the first Additional Council of Ministers Meeting in Helsinki.

59 *Prague Document 1992*, III. Human Dimension, para. 9.

60 *Ibid.*, para. 10.

61 Eric Rudenshiold, Facing the challenges of the next decade, in: OSCE/ODIHR, *Ten Years of ODIHR: Working for Human Rights and Democracy (1991-2001)*, Warsaw 2001, pp. 47-49, here: p. 48, available at: <http://www.osce.org/odihr/20457>.

62 Pavel Chacuk, *Feature: ODIHR's Human Rights Training Strengthens Civil Society in Central Asia and the Caucasus*, 15 November 2006, available at: <http://www.osce.org/odihr/57550>.

programmes on human rights monitoring and reporting such as the one conducted jointly with the Polish Helsinki Foundation for Human Rights. This programme increased the ability of NGOs in many OSCE States to carry out their activities, strengthening networks and coalitions across the area, in the spirit of the Helsinki process.

For many participants in ODIHR training, this was their first encounter with NGO management or international human rights standards. Training on human rights issues continued in the decade after 2000 as part of efforts such as the multi-year programme conducted in co-operation with the Armenian Helsinki Committee and the Tajik Republican Bureau on Human Rights and Rule of Law, which reached out to new and existing human rights groups and activists in remote regions of Armenia and Tajikistan, thereby strengthening available capacity outside of capital cities. Programmes of this type provided support for the establishment of new human rights groups, which emerged following analysis of their needs and needs on the ground.

During the follow-up stages of the same programme, the participants were trained in advocacy and other skills that strengthened the sustainability of their future work. The reports drafted on the results of the projects implemented were analysed by expert trainers and used as advocacy tools on a wide range of issues from women's rights to freedom of the media and from rights for people with disabilities to fair trial standards. Support for small projects of this kind has proven to be important not only for strengthening the capacity of civil society through learning by doing, but also in revealing areas of concern that ODIHR could bring to the attention of the responsible authorities.

As a result of these programmes, many new human rights activists have become engaged in the actual work of the local NGOs and started to value the usefulness of civil society in advocating the institutional changes they wanted to see. For example, a number of graduates of the programme in Tajikistan became part of the National Coalition against Torture and took part in the preparation of the shadow report to the UN Committee on the Rights of the Child.⁶³ Some participants became trainers themselves and are still involved in activities with ODIHR. The need to provide human rights training for civil society organizations in the OSCE area persists, however, especially in view of establishing a new generation of human rights activists.

Over the years, ODIHR's support for civil society in the human rights arena has expanded to cover a range of activities and methodologies, including organizational and strategic support for expertise on international human rights standards and OSCE commitments, advocacy, and network and coalition building, as well as longer-term projects that help human rights NGOs to

63 Cf. Nigina Bakhrieva, *Main conclusions and recommendations, as a result of the Project "Capacity Building for NGOs in Monitoring Human Rights in Tajikistan" (2005-2007), implemented by the Bureau on Human Rights and Rule of Law and the OSCE/ODIHR*, on file with the authors.

carry out their activities, thus enhancing the dialogue between civil society and government representatives and among civil society representatives themselves.

In the area of monitoring and reporting on the implementation of human dimension commitments, civil society groups have become indispensable partners for ODIHR. They have not only collected and reported information, but have also proposed solutions and often helped to implement them. In this process, ODIHR's role has been to support these NGOs with the necessary expertise, as well as to maintain channels of communication, analyse reported findings, and enhance dialogue with the authorities. Good examples of this type of assistance are the projects for monitoring freedom of assembly that were carried out in a number of OSCE participating States. These have pursued several objectives, such as strengthening the monitoring capacity of activists and local NGO partners; collecting and analysing information about legislation on freedom of assembly and its application; and preparing reports that could serve as the basis for discussions with governments about potential legislative amendments and improved application of the law.

Civil society actors from five participating States gathered in Chişinău in 2010, together with representatives from ODIHR, OSCE field operations, and the Council of Europe, to exchange lessons learned and share experience. A number of recommendations on assembly-monitoring activities were formulated by participants. These will help the OSCE and NGOs to conduct more effective assembly-monitoring projects in other participating States.

In addition, ODIHR and the Council of Europe's Venice Commission updated their Guidelines on Freedom of Peaceful Assembly⁶⁴ with substantial input from the OSCE/ODIHR Panel of Experts, which includes recognized human rights experts and members of civil society. In fact, ODIHR and the Venice Commission have been providing legislative support to OSCE participating States and Council of Europe members for years, helping them to ensure that their legislation on freedom of peaceful assembly complies with European and international standards. The development of the Guidelines has been an important part of this assistance and has enhanced ODIHR's LegislatiOnline.org database, where lawmakers and civil society can find good examples from the legislation of other participating States.

In almost all areas of its programmatic work, ODIHR has been involved in significant research in response to needs expressed by civil society actors. As a result, various resources, publications, and tools have been developed, often jointly with other international organizations such as the OHCHR and the Council of Europe.⁶⁵ Usually available in both English and Russian, most of these tools can be downloaded free of charge from the OSCE's website.

⁶⁴ Available now in their second edition at: <http://www.osce.org/odihr/75338>.

⁶⁵ ODIHR/Council of Europe/OHCHR/UNESCO, *Human Rights Education in the School Systems of Europe, Central Asia and North America: A Compendium of Good Practice*, Warsaw 2009, available at: <http://tandis.odihr.pl/documents/hre-compendium/>.

The handbook on monitoring freedom of assembly is just one recent example.⁶⁶ In the area of tolerance and non-discrimination, broad consultation with civil society experts led to the development of a resource guide on responding to hate crimes.⁶⁷ The guidelines serve as the basis for ODIHR training programmes for NGOs, which are aimed at equipping them with the knowledge and skills needed to prevent and respond to hate crimes in their communities.

In addition to its programmatic work and publications, ODIHR has made notable contributions to the HDIMs, which have taken place annually in Warsaw since 1998.⁶⁸ Over the last two decades, the HDIM has become Europe's largest human rights forum, convened to discuss the implementation of a full range of human dimension commitments and bringing together representatives from civil society and governments of participating States.

As the Helsinki Document of 1992 declares, NGOs with relevant experience in the human dimension "are invited to make written presentations to the implementation meeting, e.g. through the ODIHR, and may be invited by the implementation meeting [...] to address specific questions orally as appropriate".⁶⁹ All participants have equal access to the list of speakers, allowing participants to make their contributions to the working sessions. Furthermore, senior representatives of ODIHR, other OSCE institutions and field operations usually outline their priorities and projects, and international organizations and NGOs are invited to comment, raise questions, and present their own visions, ideas and project suggestions. Numerous side events drawing attention to particular issues in the field of human rights are organized in parallel to the main working sessions by NGOs each year.

To maximize the effectiveness of their engagement with decision-makers, NGOs must co-ordinate their input and articulate clear and cohesive messages. In some areas, such as tolerance and non-discrimination or national human rights institutions, ODIHR has facilitated preparatory meetings in which NGOs exchange opinions and agree on common recommendations in advance of the events. Over the years, ODIHR's role as a facilitator of such preparatory meetings has helped consolidate and strengthen civil society's messages, such as the recommendations addressing hate crimes signed by a number of the leading NGOs in the area of tolerance and non-discrimination.⁷⁰ After years of discussing the human dimension, the HDIM might benefit from introducing more innovative topics and creative ap-

66 OSCE/ODIHR *Handbook on Monitoring Freedom of Peaceful Assembly*, Warsaw 2011 (forthcoming).

67 OSCE/ODIHR, *Preventing and Responding to Hate Crimes. A Resource Guide for NGOs in the OSCE Region*, Warsaw 2009; available at: <http://www.osce.org/odihr/39821>.

68 Except for 1999 and 2010 due to the Istanbul and Astana Summits respectively.

69 *Helsinki Document 1992*, Part VI, para. 15.

70 Cf. Suzette Bronkhorst (Internet Centre Anti Racism Europe-ICARE), *Contribution to the OSCE HDIM 2009 working session 10 on tolerance and non-discrimination II*, 5 October 2009.

proaches that would allow civil society actors to participate even more effectively in the annual meetings.

Challenges Ahead

The optimism of the 1990s, following the democratic wave that swept Eastern Europe and the former Soviet Union, has gradually subsided with the rise of serious global threats, an economic downturn that deepened into a global financial crisis and, in some cases, stalled democratic transitions. The terrorist attacks of 11 September 2001 in the United States and, subsequently, in other states, brought new, extremely serious security issues that required a response.

The *Bucharest Ministerial Decision on Combating Terrorism* from 2001 affirmed that participating States “will not yield to terrorist threats, but will combat them by all means [...] They [...] reconfirm the norms, principles and values of OSCE.”⁷¹ The importance of involving civil society in a comprehensive and multidimensional response to the threat of terrorism has been reflected in a number of documents. The *2002 Charter on Preventing and Combating Terrorism*, for instance, recognized that it was vital to engage civil society in finding common political settlements for conflicts and to promote human rights and tolerance as an essential element in the prevention of terrorism and violent extremism.⁷² The *OSCE Bucharest Plan of Action for Combating Terrorism*⁷³ directly mandated ODIHR to continue developing projects to solidify democratic institutions, civil society and good governance. In response to this tasking, ODIHR has developed a manual on protecting human rights while countering terrorism⁷⁴ and has conducted a number of capacity-building activities for society and law-enforcement agencies of OSCE participating States, providing them with the knowledge and skills to address some of the difficult questions posed by rising threats to security.

In addition to global security threats, the second decade of the 21st century has also meant dealing with the global financial crisis, which has negatively impacted funding for civil society. Post-conflict reconstruction and the 2011 events collectively known as the “Arab Spring” have also shifted the at-

71 Decision No. 1, Combating Terrorism, MC(9).DEC/1, in: Organization for Security and Co-operation in Europe, *Ninth Meeting of the Ministerial Council, Bucharest, 3 and 4 December 2001*, MC.DOC/2/01, Bucharest, 4 December 2001, pp. 7-13, here: p. 7.

72 OSCE Charter on Preventing and Combating Terrorism, in: Organization for Security and Co-operation in Europe, *Tenth Meeting of the Ministerial Council, 6 and 7 December 2002*, MC.DOC/1/02, Porto, 7 December 2002, pp. 9-11, here: p. 10, para. 20. The *2001 Bishkek Programme of Action on Strengthening Comprehensive Efforts to Counter Terrorism* also stressed the importance of promoting active civil society engagement in the fight against terrorism.

73 *The Bucharest Plan of Action for Combating Terrorism*, Annex to Decision No. 1, Combating Terrorism, cited above (Note 71), pp. 8-13, here: page 10, para. 10.

74 ODIHR, *Countering Terrorism, Protecting Human Rights. A Manual*, Warsaw 2007, available at: <http://www.osce.org/odihr/29103?download=true>.

tention of policymakers and donors away from the OSCE area. Local donors have not yet emerged to replace international assistance, despite some encouraging trends in emerging corporate social-responsibility culture. EU assistance, often associated with cumbersome programmes and difficult-to-obtain funding, has been mostly channelled through governments. Hence, in some cases, the very sustainability of human rights NGOs, which lack the resources to carry out their core activities, especially in the post-socialist democracies of Central and Eastern Europe, is at stake.⁷⁵ Participating States need to consider carefully the impact that the crisis has had on civil society and ensure that ODIHR is equipped with the appropriate level of human and financial resources so that it can carry on providing support and technical expertise to civil society groups.

Furthermore, with political and economic reforms not proceeding as quickly as expected in some parts of the OSCE area and with serious human rights issues arising in relation to fighting terrorism, organized civil society has grown less optimistic about the prevailing state of affairs and increasingly critical of international engagement and donor assistance efforts. Indeed, most recent democracy ranking lists note “reversals in or erosion of democracy and rising disenchantment with the results of some political liberalizations”.⁷⁶

In 2008 a group of not-for-profit organizations suggested in a report that the discourse has shifted tremendously from rebuilding democracy, in the 1990s, to protecting democracy in the “new” Europe. The global and “ongoing backlash against democracy”, which “has spread and intensified”, is of particular concern because it has marked “a pronounced shift from outright repression of democracy, human rights and civil society activists and groups to more subtle governmental efforts to restrict the space in which civil society organizations [...] operate”.⁷⁷ The report examined some more sophisticated legal or quasi-legal measures used by states to suppress NGOs, by erecting “*barriers to entry* to discourage or prevent the formation of organizations, and *barriers to resources* to restrict organizations’ ability to secure the resources required to carry out their activities”.⁷⁸ The report also drew attention to a comparatively new phenomenon of “GONGO” proliferation referring to cases when governments establish organizations known as “government-organized NGOs” (GONGOs) which “attack legitimate NGOs, defend government policy under the cover of being ‘independent,’ – or otherwise in-

75 See USAID, *2009 NGO Sustainability Index*, available at: http://www.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/2009/complete_document.pdf.

76 Economist Intelligence Unit, *Index of Democracy 2010*, available at: http://graphics.eiu.com/PDF/Democracy_Index_2010_web.pdf.

77 International Center for Not-for-Profit Law and World Movement for Democracy, *Defending Civil Society*, in: *International Journal of Not-for-Profit Law* 2/2008, pp. 30-73, here: p. 30, also available at: <http://www.icnl.org/research/journal/vol10iss2/vol10iss2.pdf>.

78 Ibid. (emphasis in the original).

appropriately reduce the space for truly independent civic activity – all of which make GONGOs difficult to categorize”.⁷⁹

As a result of analyzing the various factors and phenomena that limit the effectiveness of civil society organizations working on human rights, the report proposes some key principles that concern the rights and freedoms enjoyed by the organizations themselves. These are very much in line with respective OSCE commitments on freedom of expression, association, and assembly. But beyond these recommendations, there is an appeal to the international community and governments to adopt and apply these principles, and to civil society organizations to conduct national and regional discussions to advocate for reforming legal frameworks governing them.⁸⁰ Such appeals are reminiscent of the OSCE’s human dimension commitments, where success is more about consistent legal and practical application of standards than a debate of a conceptual nature.

The examples of programming and publications above refer to situations where states and civil society could be partners in a collaborative manner to discuss and promote improvements in the human rights situation. Unfortunately, however, there are still cases where such collaboration is impossible – and this remains the biggest challenge to the further development of civil society organizations working on human rights. There are OSCE areas where the very existence of human rights NGOs and activists is under threat. Two consecutive reports on the situation of human rights defenders in the OSCE region, prepared by ODIHR in 2007 and 2008, respectively, clearly show this to be the case.⁸¹

The 2008 report provided an overview of a number of specific cases, including the killing of human rights defenders, and a number of areas of continued concern with regard to defenders of rights. The report documented cases in which defenders were arbitrarily detained, arrested and/or fined; in which human rights organizations were subjected to criminal sanctions for so-called unregistered activities; in which NGOs were denied registration or were deregistered; in which the offices of NGOs or individual human rights defenders were attacked; and in which peaceful assemblies of active citizens were dispersed violently or not sufficiently protected.⁸² The findings have been described as “alarming,” and the threats that human rights defenders

79 Ibid., pp. 39, 43.

80 Cf. *ibid.*, pp. 30-31.

81 For the first OSCE/ODIHR report on this issue see ODIHR, *Human Rights Defenders in the OSCE Region: Our Collective Conscience*, Warsaw 2007, available at: <http://www.osce.org/odihr/29714>.

82 See OSCE Office for Democratic Institutions and Human Rights, *Human Rights Defenders in the OSCE Region: Challenges and Good Practices, April 2007-April 2008*, Warsaw, December 2008, p. 4, available at: <http://www.osce.org/odihr/35652>.

still face in many OSCE countries have been characterized as “unacceptable in a democratic society”.⁸³

In many ways, the challenges outlined above only show that working with civil society on human rights issues in the OSCE area remains a challenging but necessary task. This inevitably triggers the question: What has the OSCE done in support of individuals who are being harassed by their own government? This reflects the issue of the organization’s capacity to respond to persistent patterns of harassment or, even worse, of groundless persecution and even killings of human rights activists, especially with regard to reprisals against those who attend those very OSCE meetings which are intended to provide a forum for interaction with civil society. This situation persists, as a former ODIHR Director recently noted: “Meetings of the OSCE Permanent Council remain essentially ‘off limits’ for NGOs, as there is no consensus to bring the critical element of civil society closer to inter-governmental discussions. So both substantially and structurally, more must be done indeed.”⁸⁴

Many others have also called for reform of the OSCE so that it can better address global security challenges – including threats to human rights. Civil society groups have been at the forefront of such reform efforts. The most recent example was the first Parallel OSCE Conference, which was organized by leading human rights activists and took place just before the Astana Summit of 2010. The conference served as an example of how leading human rights NGOs can, in their own words, create a “civic platform for developing strategies for strengthening the OSCE and its Human Dimension mechanisms in the spirit of civic expression and goodwill, shape specific recommendations directed at realizing the vision and potential of the organization”.⁸⁵

While the international organizational committee of the Parallel Conference commended the OSCE for its “significant achievements in advancing the human dimension over the past thirty five years” in areas such as “establishment and respect for mechanisms for participation of civil society”, calling it “a remarkable and unique achievement in the sphere of multilateral governance”, the participants also voiced a number of concerns. These included the weakness of the OSCE in responding to crises, the decreasing implementation of human dimension commitments, and the diminishing space for civil society and human rights defenders.⁸⁶

83 OSCE Office for Democratic Institutions and Human Rights, *Human rights defenders remain under threat, says new OSCE/ODIHR report*, 15 December 2008, available at: <http://www.osce.org/odihr/50505>.

84 Christian Strohal, *Renewal or Stagnation? The OSCE and the Protection of Human Rights after the Astana Summit*, in: Wolfgang Benedek/Florence Benoit-Rohmer/Wolfram Karl/Manfred Nowak (eds), *European Yearbook on Human Rights 2011*, Vienna 2011, pp. 499-512, here: p. 504.

85 Parallel OSCE Conference, at: <http://parallelosceconference.org>.

86 Cf. *Ibid.*.

In Lieu of a Conclusion: a Call for Action

It is widely recognized that human rights NGOs play an indispensable role in the international human rights system. This also holds true within the OSCE, with its unique multidimensional approach to security that places human rights at the heart of the democratic and security framework. Such an approach has proven its viability over the years in the face of multiple challenges. It has also shown that civil society is one of the key societal agents of change that can advance the implementation of human dimension commitments; it does this by fulfilling its watchdog functions, thereby ensuring accountability and transparency, as well as by working in partnership with governments in advancing legislation and policies.

The role of ODIHR as a facilitator of the ongoing dialogue between civil society and the governments of participating States, as well as among human rights NGOs across the OSCE region and with other international actors, remains as important as ever. It is the Office's ability to partner effectively with and support civil society, as well as the ability of civil society to engage constructively with governments and international players whenever possible, that can serve as key indicators of the implementation of the human dimension commitments and the advance of human rights across the OSCE area.

In the Astana Declaration of 2010, the participating States reaffirmed their human dimension commitments while also recognizing "the important role played by civil society and free media in helping [participating States] to ensure full respect for human rights, fundamental freedoms, democracy, including free and fair elections, and the rule of law".⁸⁷ Translating this appreciation into practice will be the true measure of success.

87 Organization for Security and Co-operation in Europe, Summit Meeting, Astana 2010, *Astana Commemorative Declaration: Towards a Security Community*, SUM.DOC/1/10, 3 December 2010, p. 2, para. 6, at: <http://www.osce.org/mc/73962>.

National Human Rights Institutions in the OSCE Area: Taking Stock of an Innovative Concept

*Building strong human rights institutions at the country level
is what in the long run will ensure that human rights are
protected and advanced in a sustained manner.*

Kofi Annan¹

Introduction

Largely since the 1990s, a set of new actors has appeared in the human rights arena: national human rights institutions (NHRIs). NHRIs were created as a unique and innovative concept; the idea was to introduce new bodies mandated solely to focus on the promotion and protection of human rights. It was envisaged that they would play a part in preventing systemic violations of human rights and respond to violations by providing advice and recommendations to governments or, in many instances, act as quasi-judicial bodies in handling individual complaints. Their role was intended neither to replace the state's responsibility for ensuring human rights compliance nor to complement it. Instead, NHRIs were set up to help states implement civil, political, social, economic, and cultural rights.

Although established by parliaments and funded from state budgets, NHRIs are functionally and institutionally independent. From the beginning, this fact has posed challenges for governments and civil-society actors alike. For governments, NHRIs have brought a level of oversight to state protection of human rights that had largely been missing up to that point. For non-governmental organizations (NGOs), on the other hand, there was an initial mistrust of NHRIs because in some cases they were seen as government bodies set up to provide "window dressing" for states' commitments to guaranteeing the protection of human rights, rather than contributing to that protection themselves.

For the international community, the impetus for the creation and development of NHRIs came from the clear need for independent local partners, operating at national level, to serve as focal points seeking to ensure greater human rights compliance by states. NHRIs were intended to serve as

Note: The views expressed in this article do not necessarily reflect the official positions of the OSCE/ODIHR.

- 1 United Nations General Assembly, *Strengthening of the United Nations: an agenda for further change, Report of the United Nations Secretary-General, A/57/387 and Corr.1*, 9 September 2002, p. 12.

a bridge for the communication gaps that often existed between governments and civil society in individual states.

At the heart of the decision to create these institutions was the identified need to give better protection to the rights of the most vulnerable groups in all societies: ethnic, linguistic, religious, and other minorities; refugees; internally displaced people; those with disabilities; detainees; the elderly; and women and children.² It was understood and accepted that those who regularly had no voice in the making of policy decisions required special attention and protection. It was felt that strong and independent NHRIs could become catalysts for action, particularly by giving members of these vulnerable groups a voice at national level.

This was seen as vital, as there was increased recognition by states that systemic discrimination and widespread violations of human rights, including those of the members of ethnic, religious, or linguistic minorities, would invariably increase the threat of political turmoil and conflict – with serious implications for national stability and, in some cases, regional security.³

This article will discuss the nature of NHRIs within the context of the international human rights system, with a particular focus on the human dimension of the OSCE and on the role of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) as the Organization's human rights institution. It will also seek to provide answers to the question of whether these institutions have been able to meet the expectations of those groups and bodies in the international community that first advocated their establishment.

Historical Context and Concept of NHRIs

The history of NHRIs can be traced back to 1946, when the United Nations Economic and Social Council (ECOSOC) promoted the establishment of “local human rights committees within their respective countries to collaborate with them in furthering the work of the Commission on Human Rights”.⁴ Up until 1990, however, few NHRIs were actually established.⁵ Before that, the International Bill of Human Rights had been adopted, consisting of three major international treaties protecting human rights of all people.⁶

2 Cf. *Keynote Speech by Prof. Brian Burdekin AO*, OSCE Supplementary Human Dimension Meeting, National Human Rights Institutions (Ombudsinstitutions, commissions, institutes and other), 14-15 April 2011, Vienna, Final Report, PC.SHDM.GAL/5/11, 20 May 2011, Annex IV, pp. 21-26, available at: <http://www.osce.org/odihr/78301>.

3 Cf. Brian Burdekin, *National Human Rights Institutions in the Asia-Pacific Region*, Leiden 2007, p. 1.

4 UN Economic and Social Council, *ECOSOC Resolution 2/9*, 21 June 1946, section 5.

5 In the OSCE area, for example, Canada, Spain, Portugal, France, and Poland.

6 The International Bill of Human Rights consists of the Universal Declaration of Human Rights (adopted in 1948), the International Covenant on Economic, Social and Cultural Rights (1966), and the International Covenant on Civil and Political Rights (1966) with its two Optional Protocols.

And while these treaties established the States Parties' responsibility for reporting on the implementation of the treaties, no complaint mechanism had been created by that time that would have allowed for the direct submission to the United Nations of individual complaints, except with regard to the International Covenant on Civil and Political Rights (ICCPR). The right of an individual to address complaints directly to international mechanisms would not be established until the adoption of further Optional Protocols to United Nations treaties over the subsequent years,⁷ parallel to discussions on the need for establishing NHRIs on the ground. As the debate about NHRIs and their role in supporting the rights of members of vulnerable groups developed, additional treaties were adopted to protect the rights of individuals and marginalized groups in societies.⁸

The commitment to support the creation of NHRIs around the globe was made clear in the 1993 Vienna Declaration and Programme of Action, adopted upon the conclusion of the Vienna World Conference on Human Rights.⁹ In the same year, following a long process of consultations and preparation, the "Paris Principles" were adopted by the UN General Assembly.¹⁰ These principles set minimum standards for the mandate, structure, and composition of NHRIs.

According to the Paris Principles, NHRIs must be state-funded, permanent bodies, usually established by constitutional mandate or a legislative act. Their mandate includes the protection and promotion of economic, social, and cultural rights, as well as civil and political rights.

The Paris Principles also prescribe the criteria for the effective operation of NHRIs. These include a clearly defined, broad-based human rights mandate, a membership that broadly reflects the composition of society, cooperation with civil society, and adequate financial and human resources. The most important criterion for ensuring the success of an NHRI is its functional and institutional independence, with these institutions being accountable only to the public as represented by its elected parliaments.

7 Optional Protocol to the Convention on the Elimination of Discrimination against Women (adopted in 1999), Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006), and Optional Protocol of the Covenant on Economic, Social and Cultural Rights (2008).

8 E.g., the Convention on the Rights of the Child (1989), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), and the Convention on the Rights of Persons with Disabilities (2006).

9 United Nations General Assembly, *World Conference on Human Rights, Vienna, 14-25 June 1993, Vienna Declaration and Programme of Action, as adopted by the World Conference on Human Rights on 25 June 1993*, A/CONF.157/23, 12 July 1993, section I, para. 36, available at: [http://www.unhchr.ch/huridocda/huridoca.nsf/\(symbol\)/a.conf.157.23.e](http://www.unhchr.ch/huridocda/huridoca.nsf/(symbol)/a.conf.157.23.e).

10 Principles relating to the status of national institutions: Competence and responsibilities, Annex to: United Nations General Assembly. *National institutions for the promotion and protection of human rights*, A/RES/48/134, 20 December 1993 (henceforth "Paris Principles"), at: <http://www.un.org/documents/ga/res/48/a48r134.htm>, also at: <http://www2.ohchr.org/english/law/parisprinciples.htm>.

According to the Paris Principles, the responsibilities of NHRIs at national level include the submission of policy recommendations, proposals, and reports to governments, parliaments, or other public institutions; the promotion of national laws and practices in conformity with international human rights standards; and commitment to human rights education. Typical functions may also include the processing of individual complaints and the conducting of inquiries into significant allegations of human rights abuses. While the performance of these last-mentioned functions is not mandatory under the Paris Principles, the vast majority of NHRIs in the OSCE area – particularly in the territories of the former Soviet Union and the former Yugoslavia – process complaints from individuals as a key part of their mandate. NHRIs also often focus on specific themes as they seek to protect the most vulnerable and marginalized groups in a society.

While NHRIs are understood to work predominantly at the national level, in recent years their importance has also been recognized at the international level, thereby allowing them a role as catalysts in helping their respective states to implement international human rights standards. Again, while the responsibility for protecting human rights continues to lie with the states, NHRIs can assist by monitoring and providing expertise, through advocacy work, e.g. pressing for the ratification of international human rights treaties, and by reporting on human rights violations. They are encouraged to contribute actively to the Universal Periodic Review (UPR) of the UN Human Rights Council and, if accredited by the Sub-Committee on Accreditation (SCA), are entitled to submit documentation to Council sessions and enjoy the right to make oral interventions at these sessions independently of their governments.¹¹ They are further encouraged to report to human rights-treaty bodies on the progress being made in their respective states in implementing international standards. Where NHRIs do not yet exist or require further strengthening, governments regularly receive recommendations in this area in their UPR review.¹² International instruments that have come into force since 2006 include specific references to the Paris Principles, with the de facto result that governments in the OSCE region often designate their NHRIs as the monitoring body under these instruments.¹³

1993 saw the establishment, immediately after the adoption of the Paris Principles, of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (commonly referred to as the International Coordinating Committee, or ICC), a self-governing

11 For the latest session of the Human Rights Council, see UN Human Rights Council. *Information for National Human Rights Institutions*, at: <http://www2.ohchr.org/english/bodies/hrcouncil/nhri.htm>.

12 For example in the Netherlands, Switzerland, Turkmenistan, and Uzbekistan.

13 This applies to the Optional Protocol to the UN Convention Against Torture, which was adopted on December 2002 by the United Nations General Assembly and came into force in June 2006, and equally to the Convention on the Rights of Persons with Disabilities, which was adopted by the UNGA on 13 December 2006 and came into force on 3 May 2008.

body with the Office of the UN High Commissioner for Human Rights (OHCHR) serving as its secretariat that is mandated to review compliance with the Paris Principles through its SCA.¹⁴ The SCA comprises four members – one from each region.¹⁵ The established norm is that only one NHRI can exist per country.¹⁶

A number of bodies can be NHRIs; in the OSCE area, the terminology varies, encompassing ombudsperson institutions,¹⁷ human rights¹⁸ or advisory commissions,¹⁹ and human rights institutes.²⁰ In the newly independent states of the former Soviet Union and the former Yugoslavia, all NHRIs have been set up as “hybrid” ombudsperson institutions, with mostly complaint-handling functions but nevertheless a broad mandate in the area of human rights protection and promotion.

NHRIs have now been established in most of the OSCE’s 56 participating States. These currently include 30 ombudsperson institutions, eight commission-style institutions, four institutes, and other bodies. Specialized independent bodies for the protection of certain groups, such as children’s ombudsperson institutions or gender equality commissions, are not considered to be NHRIs; neither would a classical ombudsperson institution which focuses solely on the legality of administrative proceedings in the state of administration be considered as such.²¹

The OSCE and NHRIs

Along with other international actors, such as the UN OHCHR, the United Nations Development Programme (UNDP), the Council of Europe (CoE), and others, the OSCE has a long history of supporting the establishment of

14 For more information on accreditation, see the ICC website at: <http://nhri.ohchr.org/EN/Pages/default.aspx>.

15 The regions are classified as the Americas, Europe, Africa, and Asia-Pacific. Note that the OSCE area covers all countries in Europe as well as Canada and the United States of America. Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan are presently not members of either the European or the Asia-Pacific Group.

16 With the exception of the United Kingdom, where, in addition to the United Kingdom Equal Treatment Commission, the Northern Ireland Human Rights Commission and more recently the Scottish Human Rights Commission have also been accredited with “A Status” by the SCA.

17 Ombudsperson institutions across the OSCE area have a variety of titles, including, for example, Human Rights Ombudsman (Tajikistan, Slovenia), Chancellor of Justice (Estonia), Human Rights Defender (Georgia, Armenia), Public Defender (Albania), Defensor del Pueblo (Spain), Provedor de Justiça (Portugal), Commissioner for Human Rights (Azerbaijan), and Commissioner for Civil Rights Protection (Poland).

18 National Human Rights Commissions exist in, for example, Ireland, France, Greece, the United Kingdom, Scotland, and Northern Ireland.

19 In Luxembourg, the Consultative Commission of Human Rights is an advisory commission.

20 National Human Rights Institutes can be found in, for example, Germany (German Institute for Human Rights), Denmark (Danish Institute for Human Rights), Norway (Center for Human Rights), and Slovakia (Slovak National Center for Human Rights).

21 For example, the Parliamentary Ombudsmen in Sweden.

NHRIs. As early as 1990, OSCE commitments called on participating States to establish these institutions.²²

With its field presences on the ground in countries in transition, the OSCE was able to serve as a long-term partner for national governments and civil society, providing sustained support and expertise in establishing NHRIs. Each of the OSCE's field operations has engaged to some degree in supporting the process of establishing NHRIs in their host country. Today, NHRIs exist in each of the countries in which the OSCE operates or has previously operated (with the exception of Belarus). OSCE field staff have been active in advocating the establishment of these – ideally – independent bodies by providing legislative and technical guidance during the process of drafting legislation and appointing heads of these institutions, and by facilitating capacity-building activities on a wide range of thematic and operational issues for NHRI staff.

Recognizing the OSCE's expertise in building institutions in a post-conflict environment, the OSCE missions in Bosnia and Herzegovina and in Kosovo were basically engaged in creating and setting up the national human rights institutions there. In Bosnia and Herzegovina, the OSCE was specifically mandated under the Dayton Peace Agreement²³ to appoint a Human Rights Ombudsman; in Kosovo, the OSCE set up the Ombudsperson Institution – headed by an international Ombudsperson – and financed its operations for several years. In Kazakhstan, on the other hand, the OSCE Centre in Astana has, since September 2009, implemented a capacity-building project with a specifically designated, full-time staff member who organizes study tours for the Ombudsperson Institution's staff, as well as workshops and conferences. The Centre has also sought to move forward the process of creating the legal basis for the establishment of a Paris-Principles-compliant NHRI.²⁴

ODIHR and NHRIs

Complementing the work of OSCE field operations, OSCE/ODIHR has supported the development and activities of NHRIs since its establishment in 1991. The Office has reviewed legislation establishing NHRIs, served as an OSCE-wide knowledge hub on NHRI-related issues and, when requested by states, offered technical assistance. Since 2009, a major focus of ODIHR's work in this field has been on providing support to NHRIs that have been

22 Cf. Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, section 27, 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. 455.

23 Cf. *Dayton Peace Accords*, Paris, 14 December 1995, Annex 6, Chapter Two, Part B, Article IV.2.

24 The Office of the Ombudsman in Kazakhstan is the only institution in the OSCE area which could qualify as an NHRI to be established by a Presidential Decree.

designated as national detention-monitoring bodies, the so-called National Preventive Mechanisms under the Optional Protocol to the UN Convention Against Torture.

In 2011, the Lithuanian OSCE Chairmanship has made NHRIs one of its three priority issues within the human dimension. Throughout the year, ODIHR provided expertise to the Chairmanship, while increasing its programmatic engagement in areas which have hitherto been left unexplored by other international actors; these areas include the role of NHRIs in gender equality and women's rights, and the relationship between NHRIs and civil society. An OSCE Supplementary Human Dimension Meeting (SHDM) on the subject of NHRIs was held in Vienna on 14 and 15 April to provide a platform for the discussion of this issue among governments, civil society, and NHRIs.²⁵ In order to intensify the discussions started at the SHDM, ODIHR, in conjunction with the OSCE Chairmanship, organized a conference in Vilnius on 13 and 14 July, which was attended by NHRIs from 34 OSCE participating States and one Mediterranean Partner with a view to discussing the relationship between NHRIs and the main national stakeholders, including representatives from the executive, national parliaments, the judiciary, and civil society.

Challenges and Opportunities

NHRIs can play a key role in the protection and promotion of human rights, and the number of these institutions set up in the OSCE area over the past 20 years demonstrates the widespread recognition of their importance. However, the question remains as to whether the expectations of the international community have so far been fulfilled. Have the overall efforts resulted in the creation of strong and independent human rights bodies that can trigger improvements to an existing human rights climate or help to ensure greater human rights compliance by a state? Or, in some cases, have governments set up NHRIs to represent a commitment to human rights that, in reality, does not exist?

One way to attempt to answer these questions is to examine the use of the ICC's accreditation process as a tool for review. One third of all accredited institutions are from the OSCE area. These 22 NHRIs have all been accredited with "A" status, indicating compliance with the Paris Principles.²⁶ Drawing from this the conclusion that such accredited NHRIs are effective

25 Cf. OSCE, Supplementary Human Dimension Meeting on National Human Rights Institutions (ombudsinstitutions, commissions, institutes and other mechanisms), 14-15 April 2011, at: http://www.osce.org/event/shdm2011_1.

26 These institutions are from Albania, Armenia, Bosnia and Herzegovina, Canada, Croatia, Denmark, France, Georgia, Germany, Greece, Ireland, Luxembourg, Northern Ireland, Norway, Poland, Portugal, the Russian Federation, Scotland, Serbia, Spain, Ukraine, and the United Kingdom.

and efficient would, however, not necessarily be accurate. The review process carried out by the SCA does not evaluate the effectiveness or impact of an NHRI; instead, it analyses the fulfilment of baseline requirements for NHRIs. These, as outlined above, include a clear mandate to protect and promote human rights, a strong legislative framework, and adequate human and financial resources.

In principle, it can be stated that those NHRIs that have the greatest formal guarantees of effectiveness and independence are almost certainly going to be those where the government has the greatest commitment to protecting human rights.²⁷ Complying with the Paris Principles, therefore, greatly increases the likelihood of NHRIs being effective in protecting and promoting the human rights of a country's population, as well as making an impact as on the state's policies and legislation.

The essential criteria set forth by the Paris Principles have, however, been raised at the above-mentioned OSCE Supplementary Human Dimension Meeting on NHRIs as areas requiring further substantial improvement. At the Preparatory Meeting of NHRIs, concerns were raised that these criteria were often still not being implemented in practice. Participants noted that a number of governments still lacked a full understanding of the role of NHRIs, with the result that NHRIs were provided with a weak legislative framework and insufficient resources to fully exercise their functions, and that recommendations made by NHRIs were being implemented inadequately.²⁸ It is noteworthy that nine out of the 14 NHRIs represented at the meeting were accredited with "A" status at that time.

Of equal concern is the fact that a survey released in 2009 by the UN OHCHR concluded that although there was general agreement that NHRI mandates were sufficiently broad, ensuring that they had access to adequate resources and were financially independent remained a challenge.²⁹ Many respondents in the survey also noted the need to strengthen relationships with national stakeholders, such as executive branches, parliaments, and judiciaries.³⁰ Participants at the aforementioned conference organized in Vilnius by ODIHR and the OSCE Chairmanship in July 2011 were particularly keen to address those relationships. While elaborating on good co-operation practices was the focus of the conference, many NHRIs highlighted the constant challenges they face in exercising their mandate along the lines of those challenges described above. This demonstrated the clear need for further enhancement of these relationships in the future.

27 Cf. International Council on Human Rights Policy, *Performance & Legitimacy: National Human Rights Institutions*, Versoix 2004, p. 1, at: http://www.ichrp.org/files/reports/17/102_report_en.pdf.

28 Recommendations from the Preparatory Meeting can be viewed at: <http://www.osce.org/odihr/84064>.

29 Cf. UN Office of the High Commissioner for Human Rights, *Survey on National Human Rights Institutions*, Geneva, July 2009, pp. 4-5.

30 Cf. *ibid.*, p. 5.

Additional challenges include a low level of awareness about NHRIs³¹ and insufficient engagement by NHRIs with civil-society organizations, which often serve as the “eyes and ears” of different communities and can contribute valuable expertise to the work of NHRIs. By their nature, civil-society organizations are often in a position to provide better access to rural or minority populations which NHRIs would otherwise not be able to reach. Furthermore, having acknowledged the importance of the relationship between NHRIs and civil-society actors, ODIHR conducted a survey in 2010 which explored the current level of engagement between the two. An analysis of the responses received from 27 NHRIs in the OSCE area revealed that civil-society organizations are frequently not used as sources of information or expertise.³²

Lessons Learned

The level of commitment a government displays towards an NHRI can be seen in the initial stages of its establishment. Where institutions have been set up on the basis of a commitment by the state to adhere to international human rights principles or have been initiated by the will of the people, the likelihood of the NHRI being strong and effective is high. In Poland, for example, the Office of the Public Defender was established in 1987 during a period when the country’s communist regime was in the process of seeing its power challenged and needed to give signals to the population that their demands were being heard.³³ This resulted in the institution being set up on a legislative basis that provided it with far-reaching powers, a situation that to this day remains exceptional in the OSCE area.

Where the decision to establish an NHRI is inspired from outside, however, the result is often a lack of support for the institution or a lack of understanding of its role on the part of both government and civil society. The perceived need to establish NHRIs has become a global trend, with international pressure serving as an external impetus for states to establish NHRIs. Such pressure can be brought to bear through international instruments, such as recommendations from the UPR or from Concluding Observations by UN treaty bodies, or through international presence in a country. This applies particularly to countries involved in the transition to democracy, where there are often many international actors on the ground. In cases where it is not the state’s actual prerogative to make the decision to introduce an institution exercising quasi-external oversight of that state’s success in guaranteeing and protecting human rights, it is significantly less likely that an NHRI will be

31 *Survey on National Human Rights Institutions*, cited above (Note 29).

32 On file with ODIHR.

33 Source: Interview with staff from the Office of the Public Defender of Poland on 21 October 2011.

able to fulfil its role properly. As mentioned above, NHRIs can end up as mere window dressing, with little real relevance to a country's commitment to defending human rights. While international support and advice can certainly help governments to adhere to international human rights commitments, they can never serve as a substitute for genuine political will which allows the establishment of an independent and effective NHRI.

Also of particular importance for ensuring an NHRI's legitimacy and success is the nature of the process leading up to its establishment.³⁴ If the consultative process leading to the establishment of the NHRI is insufficiently transparent, inclusive, and consultative, it is unlikely that such a government-funded body will enjoy the trust of the general public.

The lack of genuine political will to ensure full human rights compliance by a state presents another key challenge to the work of NHRIs. Where there is no commitment on the part of the state, there will be no interest in equipping the NHRI with the tools necessary for it to be effective. The institutions will naturally be likely to lack a strong legislative framework and adequate financial resources, having neither qualified staff nor the knowledge and political standing to contribute constructive recommendations to legislation, policies, and practices relating to human rights compliance.

The selection of the person or persons to head an NHRI is one critical indicator of the likelihood of its success, and can be a sign of the state's degree of commitment to creating an effective institution. If the individual³⁵ or individuals³⁶ chosen to lead the NHRI are likely to stand up for human rights, particularly if they enjoy a reputation both in the government and in civil society to advocate the protection of those rights, the institution is likely to be in a position to achieve real results in moving the situation vis-à-vis human rights forward in the country in question.

Furthermore, it is of the utmost importance that the head of an ombuds-person institution is selected in a transparent manner with a consultative and inclusive process involving all the relevant actors – representatives of the public at large in particular – in the decision. This process is the key to guaranteeing the NHRIs independence, diversity and accessibility.³⁷ While these selection criteria have been defined in the General Observations of the SCA,³⁸ few OSCE participating States have so far applied them.

One positive example stands out in the United Kingdom, where the method of selection for heads of the NHRI in Scotland is an open, merit-based application process that is led and fully managed by the parliament.³⁹ A more common practice, however, is a process by which the heads of institu-

34 Cf. Burdekin, cited above (Note 3), p. 14.

35 In the case of an Ombudsperson Institution.

36 In the case of a Human Rights Commission or Human Rights Institute.

37 Cf. UN High Commissioner for Human Rights, *Annual Report 2011*, A/HRC/16/77, p. 8.

38 Cf. UN High Commissioner for Human Rights, *Annual Report 2010*, A/HRC/13/45, Annex 4, p. 37.

39 Cf. *Intervention by Prof. Alan Miller, Chair of the Scottish Human Rights Commission, at the OSCE Conference for NHRIs*, 13-14 July, Vilnius.

tions are de facto selected by the executive and then approved by the parliament. In the worst case, the appointed candidate(s) might be essentially the political representative of the governing interests or simply weak or ill-prepared for the post. Even if all the other essential criteria for success have been met, it is unlikely in such an instance that the NHRI will succeed in fulfilling its intended functions effectively. The danger of such a result is particularly great in cases where strong emphasis is placed on the personality of the institution's head – which is the case in many OSCE participating States, particularly in the Balkans and the Commonwealth of Independent States.

In the OSCE area today, there are many instances where the genuine commitment of a state to adhere to international human rights must be questioned. In one OSCE participating State, for instance, the institution was created by means of a peace agreement after an armed conflict. While the agreement sensibly took into account the specific political setting of the newly-formed country, it created an institution in which operations are jeopardized, paradoxically, by this same politically complex landscape which is reflected in the structure of the institution. As a result, the NHRI seems to be prevented from utilizing its potential to the full. In other regions in the OSCE area, where participating States have faced serious challenges in adhering to international human rights standards, the creation of NHRIs appears to have been driven solely by the international community. As a result, all such institutions remain weak without showing any tangible results in terms of changing the human rights culture. In one such participating State, the parliament has recently amended the law establishing the NHRI, extending the criteria for dismissal of the Ombudsperson. Under this new amendment, the head of the institution can be dismissed if the parliament does not approve the institution's annual report. This development naturally undermines the independence of an NHRI and will probably result in limiting the ability of the institution to criticize the government's policies.

The "use" of NHRIs by states to pay lip service to their human rights commitments is not, however, limited to countries in transition or newly-established democracies; this type of window dressing also exists among more established democratic states. This is often the result of their treating the protection of human rights as a consideration in foreign-policy and foreign development-aid decisions instead of an obligation at national level. A comparative analysis⁴⁰ conducted by the European Union's Fundamental Rights Agency (FRA) identified a lack of commitment to the existence and development of strong and effective NHRIs in a number of EU member states. While the human rights records in these cases might not be comparable with those in many transition countries, a similar lack of commitment can be. In some EU countries, for example, NHRIs have been set up in the

40 European Union Agency for Fundamental Rights/FRA, *National Human Rights Institutions in the EU Member States – Strengthening the fundamental rights architecture in the EU*, Luxembourg 2010, at: http://fra.europa.eu/fraWebsite/attachments/NHRI_en.pdf.

form of human rights institutes or advisory commissions that mostly have advisory and research functions and focus on the promotion of human rights. These institutions have been successful in fulfilling these briefs, but they often have no mandate to protect or intercede on behalf of individuals. The rationale most often given for the creation of NHRIs of this type is that there were already inner-governmental oversight bodies or parliamentary petition committees with the role of ensuring the protection of individuals' human rights in these countries. Such arguments demonstrate a failure to understand the principle, nature, and role of NHRIs.

The Way Ahead

While there is no need to fine-tune or develop the Paris Principles any further, it does appear to be necessary to create indicators and benchmarks for use in evaluating the performance of NHRIs, applying standards beyond the normative review of the Paris Principles. This would allow for the assessment and measurement of the impact NHRIs make. Such an evaluation could be used to facilitate public discourse on the work of NHRIs and to provide support to governments in fulfilling the commitments they made when agreeing to establish these institutions.

To date, there has been little focus on reviewing the actual performance of NHRIs, with few requests from governments, civil-society bodies, or the NHRIs themselves to look at this question. The international community has been equally cautious in seeking to evaluate NHRIs. There are a number of factors hampering the introduction of assessment or review processes.

First, the concept of external governmental oversight is still relatively new, as are these institutions themselves, which means that undertaking such an evaluation might still be premature at this point. It is probably not yet time for internal reviews or those carried out by the international community, particularly as most of the latter group is still engaged in the process of aligning themselves with the work of these institutions rather than seeking to criticize them.

Second, such a technical assessment of NHRIs would be difficult to carry out effectively, given the wide variety of mandates and structures under which NHRIs currently function and the many different contexts in which they operate.

Finally, the international community appears to be hesitant about carrying out such an evaluation, as a fully-fledged assessment of performance would potentially result in some NHRIs being deemed to lack the necessary ability to perform their functions properly or, more seriously, to lack the willingness to perform as mandated. In a number of cases, the latter assessment would result directly from a lack of commitment on the part of the state to establish a truly independent and effective NHRI.

Despite these concerns, the ability to review the work and nature of NHRIs is vital to the monitoring of states' success in meeting their obligations to promote and defend the human rights of their citizens. For OSCE participating States, this would provide an opportunity to improve the implementation of relevant OSCE commitments to support the development and enhancement of a culture of human rights.

Conclusion

If NHRIs are to genuinely become key players in the protection and promotion of human rights, OSCE participating States themselves have to show a genuine commitment to the protection of these rights. Only in this case will NHRIs have the leverage to fulfil their role effectively. Over the past 20 years, they have become an indispensable component of human rights protection at national level, and the relevance of these institutions seems likely to grow inexorably. The international community must continue to play a vital role in supporting governments in this process, while simultaneously displaying a degree of sensitivity to different national contexts and allowing sufficient time for real progress to be made. When enough time has passed, the next step in this development will be the establishment of indicators that can be used to measure the performance of NHRIs and suggest additional steps that can be taken by governments, and the institutions themselves, to achieve further progress. Supporting this process should lead to the increased, and more effective, protection of human rights by the state, underpinning the security not only of individuals but of the states themselves at national and regional levels.

Parliaments in the Principles and Practice of the OSCE

The institution of parliament is not readily visible as a major component of the OSCE human dimension and democracy commitments. Parliament is in many ways a “silent guest” that is implicitly referenced through diverse terminology in the body of commitments relating to the various components of a democratic society, including the concepts of pluralism and effective representation. A quick or superficial overview of the main OSCE commitments on democracy and human rights does not yield many direct references to parliaments or their importance to programmatic work. As a result, this paper aims to analyse the institution of parliament as an implicit and embedded component of the OSCE’s commitments as well as its views and practices relating to democracy, particularly with regard to comprehensive security. This paper explains that parliament’s implicit presence in the commitments does not demonstrate any diminished importance for representative institutions and pluralism. On the contrary, this paper argues that support programmes for parliaments are firmly embedded in the practical work of the OSCE, which is a reflection of the OSCE’s recognition of the importance of parliament in multiparty democracy, and hence its human dimension of security.

Parliaments in the OSCE Commitments

Following on from the Helsinki Final Act (1975), the CSCE Copenhagen Meeting of the Conference on the Human Dimension and its concluding Document (1990) provided substantive steps for participating States to move their democracies forward and to consolidate transitions to democracy. In Copenhagen, the participating States were able to express their conviction that human rights and democratic institutions should be both defended and promoted. The states made concrete declarations on free elections and voting procedures, also stating explicitly that “a form of government that is representative in character, in which the executive is accountable to the elected legislature or the electorate”¹ is essential, while political participation is a

Note: The views expressed in this contribution are the authors’ own and not necessarily those of the OSCE/ODIHR.

- 1 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, section 5.2, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe, Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 439-465 (hereinafter: Copenhagen Document).

basic right.² Effective participation and representation of the electorate has been a fundamental precept that has guided the OSCE in its practical reaffirmation of the overarching concept of democracy. However, the institution of parliament has a mostly implied presence in the OSCE commitments, while at the same time the main functions of parliament in democratic theory and practice are endorsed and supported by these overarching commitments.

The tacit presence of parliament is not the result of an intentional omission. On the contrary: For the drafters of the Copenhagen and other documents, parliament would have been an indisputable element of any vision of modern and pluralist democratic systems. This is supported by the fact that the classical functions of parliament in democratic theory are endorsed and supported by these commitments. For instance, one of the few situations where the commitments *explicitly* mention parliaments occurs in section 7.9 of the Copenhagen Document, where the participating States pledge to “ensure that candidates who obtain the necessary number of votes [...] are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law *in conformity with democratic parliamentary and constitutional procedures*”.³ This last phrase suggests that there was a pre-existing set of norms and practices regarding democratic parliaments that were assumed to be known and understood. In hindsight, this “tacit” presence of parliaments in these crucial documents of the OSCE’s human dimension could have perhaps been clearer in the emphasis placed on the importance of the institution of parliament for building and consolidating democracy. Since the documents were adopted, academic research has emerged which confirms – based on statistical cross-country analyses – the importance of parliament in building democracy over the long term; countries with stronger parliaments (defined in terms of formal powers) were found to be more likely to fare better in their democratization efforts over time.⁴

This contribution nevertheless demonstrates that in its practices and programmes, the OSCE has a strong and explicit dedication to supporting and strengthening parliament as an institution of democracy. Providing parliamentary assistance and support for the participating States in their efforts to safeguard effective representative bodies has been a guiding objective of the OSCE’s work and partnerships based on the OSCE commitments and documents.

2 See, for example, the discussion in: Eric Stein, International Integration and Democracy: No Love at First Sight, in: *American Journal of International Law* 3/2001, pp. 489-534, here: p. 490. Stein writes that “taking into account this growing acceptance and the commitment of most states under UN covenants and other global and regional treaties, as well as the extensive practice of states fostering democracy abroad, some commentators have argued that the rights to free elections and participation in public affairs are becoming – or have already become – part of the cluster of basic rights protected by general international law”.

3 Copenhagen Document, cited above (Note 1), section 7.9 (authors’ emphasis).

4 Cf. M. Steven Fish, Stronger Legislatures, Stronger Democracies, in: *Journal of Democracy* 1/2006, pp. 5-20, here: p. 12.

Legislation

According to the Copenhagen Document, the “full expression” of democracy, justice, fundamental freedoms, and human rights requires legislation to be subject to transparent processes that respect the whole body of OSCE commitments. Specifically, there is the provision in section 5.8 of the Copenhagen Document that legislation should be “adopted at the end of a public procedure, and regulations will be published [...]”. Moreover, these requirements are “the condition for their applicability”. The text of legislation should also be “accessible to everyone”.⁵ Although these provisions do not specifically mention the role of parliaments in legislation, one could argue that the commitments imply that the legislatures of participating States should be the main venue for the introduction of and deliberation on legislation. Improving legislative processes in parliaments, which ensures that legislative and parliamentary procedures are open to the public and transparent, has been a guiding principle of OSCE parliamentary assistance, as will be demonstrated below in the discussion on the work of the OSCE. In the 1991 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, there is reaffirmation that democratic institutions must be pluralistic and transparent. Specifically, the Moscow Document includes the provision that states should recall that “legislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives”.⁶ This commitment builds upon and further clarifies section 5.8 of Copenhagen, in that it more concretely refers to legislation being adopted based on the “will of the people”, which implies some form of delegated representation in a parliamentary format, or otherwise direct legislation by the people through referenda.

Representation

It is the will of the people that should guide democratic processes, and the OSCE participating States have declared that this will of the people is “the basis of the authority and legitimacy of all government”.⁷ Although government is not specifically delineated here to include parliaments, the commitments of the states refer explicitly to the free and fair expression of people in periodic and genuine elections. As parliament is the primary elected institution, the commitments provide clear guidance that citizens should be able to take part in the governing of their country. The legitimacy and authority of governments depend on the level of citizens’ rights and abilities to express

5 Copenhagen Document, cited above (Note 1), section 5.8.

6 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991, section 18.1, in: Bloed (ed.), cited above (Note 1) pp. 605-629 (hereinafter: Moscow Document).

7 Copenhagen Document, cited above (Note 1), section 6.

their will through elected representatives and parliamentary institutions. The Copenhagen Document further specifies in section 7 that the states should “ensure that the will of the people serves as the basis of the authority of government”, thereby committing them to “hold free elections at reasonable intervals, as established by law”, and requiring “all seats in at least one chamber of the national legislature to be freely contested in a popular vote”.⁸ Therefore, the support for and strengthening of parliament often focuses on the ability of citizens to participate effectively. Conversely, effective representation of citizens through representative bodies and parliament results in government that is responsive and accountable to society.

The importance of effective representation and participation through parliaments has been illustrated by Levitsky and Way’s analysis of the mechanisms of control in what they termed “competitive authoritarian” regimes.⁹ Discussing the importance for such regimes of controlling the legislature, they argue that when the legislature is not “elimin[ated]” as a “potential arena for contestation”, parliaments may create irksome obstacles to further power consolidation; they may “thwart presidential appointments, create new mechanisms of oversight, conduct high-profile investigations into government abuse, and even threaten the incumbent’s political survival” by impeaching him or her.¹⁰ The consequences, therefore, of a deficiency in pluralism and ineffective representation of citizens is a weaker parliament that may not in fact be responsive to the electorate.

Institutions

As noted above, the Copenhagen Document refers directly to democratic institutions, albeit without reference to parliaments. Nevertheless, according to section 26 of the Copenhagen Document, “vigorous democracy depends on the existence as an integral part of national life of democratic values and practices as well as an extensive range of democratic institutions [...]”.¹¹ Parliaments, considered as national institutions that protect the accountability of government to societies, are “an important component of national governance systems”¹² and an essential institution for the functioning of any healthy and effective democracy. The OSCE commitments have adopted the approach that parliament is an institution that embodies the totality of commitments to democracy and should necessarily be included in any democracy-building

⁸ Ibid., sections 7, 7.1, and 7.2.

⁹ Steven Levitsky/Lucan A. Way, *Competitive Authoritarianism: Hybrid Regimes After the Cold War*, Cambridge 2010. While the monograph is primarily concerned with defining, conceptualizing, and analysing such regimes, a simple definition offered is that they are “regimes that combined multiparty elections with some form of authoritarian rule” (p. 19).

¹⁰ Ibid., p. 63.

¹¹ Copenhagen Document, cited above (Note 1), section 26 (emphasis in the original).

¹² Alan Hudson/Claire Wren, *Parliamentary strengthening in developing countries, Final Report for DFID*, 12 February 2007, p. 4, at: <http://www.odi.org.uk/resources/docs/128.pdf>.

agenda. To encourage the conditions for democratic values and practices, the Copenhagen Document further proposes in section 27 that “co-operation be encouraged between parliamentarians from participating States, including through existing inter-parliamentary associations and, *inter alia*, through joint commissions, television debates involving parliamentarians, meetings and round-table discussions”.¹³

In the Moscow Document (1991), there is further emphasis on and clarification of the role of democratic institutions in ensuring pluralism. Specifically the Moscow Document includes the provision that the participating States “reaffirm that democracy is an inherent element in the rule of law and that pluralism is important in regard to political organizations”.¹⁴ Pluralism in the institution of parliament, therefore, is an implied yet fundamental component of OSCE commitments. The impact of parliaments on levels of pluralism in governance, to which the OSCE commitments refer, is again illuminated by Levitsky and Way’s analysis of legislatures in authoritarian societies:

Legislative control is critical in competitive authoritarian regimes. For one, it enhances the executive’s capacity to manipulate and control other areas of politics. Because top judicial and electoral authorities often are chosen directly by legislatures or require legislative approval, executive control over constitutional courts, electoral commissions and other agents of horizontal accountability often requires a reliable legislative majority. Control over the legislature may allow the governing party to modify the constitution (for example, eliminating presidential term limits) to extend or deepen authoritarian rule.¹⁵

In his discussion of the importance of strong parliaments for democratic consolidation, M. Steven Fish provides an additional perspective on the link between parliaments and pluralism. He argues that “the strength of parliaments also affect[s] the development of political parties”.¹⁶ Using a case study of Bulgaria in the 1990s and early 2000s, he argues that “the strength of the legislature spurred the formation of parties that structured political competition and injected vigor into elections”.¹⁷ Fish expounds on this link by suggesting that when a legislature is weak and the executive is strong, “for politicians, the attractive positions are in the executive branch, and party work is not a prerequisite for a post there”; similarly, “for those who seek to influence policy, buying off an official in an executive branch agency beats building a political party”.¹⁸

13 Copenhagen Document, cited above (Note 1), section 27.

14 Moscow Document, cited above (Note 6), section 18.

15 Levitsky/Way, cited above (Note 9), p. 63.

16 Fish, cited above (Note 4), p. 15.

17 *Ibid.*, p. 16.

18 *Ibid.*, p. 16.

Parliament is present in a tacit way in the OSCE's body of commitments. However, this "tacit" presence has not prevented the OSCE from building a "parliamentary dimension" in its practices and programmes. The body of programmes, practices, and procedures qualifies and complements the picture offered above and suggests that the OSCE recognizes parliaments and parliamentarians as an essential component of its doctrine of comprehensive human security. Moreover, the OSCE is in fact an international organization with a major – yet not quite fully integrated – parliamentary component in its democratization strategies and planning.

This section will provide an overview of the major components in which the OSCE's work has had an impact on parliaments and local representative institutions. This requires us to look at the programmatic element, in other words the way in which OSCE institutions and field operations have provided assistance to build democratic institutions in line with commitments and their specific mandates. This section also references instances of how parliaments have been part of OSCE procedures and processes. In so doing, we hope to build an introductory picture of the importance of the OSCE's "parliamentary dimension".

"Build, Strengthen and Protect Democratic Institutions":¹⁹ The OSCE's Support for Parliaments

The OSCE's programmatic work, while rooted in unique commitments and standards agreed by political consensus among its participating States, is in many ways comparable, at an operational level, to the work of other international organizations and democracy assistance foundations. In this regard, its engagement in strengthening parliament as an institution and as a component of effective representative democracy can be classified in line with the international development strategies falling under the shifting labels of parliamentary strengthening, parliamentary assistance, legislative assistance, parliamentary development, or a similar combination of terms. A 2009 UNDP practice note defined this as "activities aimed at enhancing the representative, legislative or oversight capacity of parliamentary institutions in the governance process".²⁰ A more comprehensive definition is provided by the international parliamentary development practice portal site *Agora*:

[P]arliamentary support programmes are the primary mechanism for encouraging parliamentary development. These programmes aim to

19 CSCE Helsinki Document 1992: The Challenges of Change, Helsinki 10 July 1992, in: Bloed (ed.), cited above (Note 1), p. 701-777, Helsinki Decisions, part VI, section 2.

20 United Nations Development Programme, *Parliamentary Development. UNDP Strategy Note*, May 2009, p. 3, at: [http://www.agora-parl.org/sites/default/files/UNDP%20PD%20Strategy%20Note%20\(May%202009\).pdf](http://www.agora-parl.org/sites/default/files/UNDP%20PD%20Strategy%20Note%20(May%202009).pdf).

strengthen parliaments in order to foster representative, transparent, accountable, and effective government. [...] Within this framework, parliamentary support programmes draw from an array of approaches and methodologies depending on the context and needs of a given parliament.²¹

In doing this, the OSCE is part of a *de facto* “community of practice” that includes international and supranational organizations (UNDP, the World Bank, the European Union), other regional organizations (the Council of Europe), national development agencies (Canadian International Development Agency/CIDA, the UK Department for International Development/DFID, United States Agency for International Development/USAID), and democracy assistance foundations (the US political party foundations, the UK Westminster Foundation for Democracy), all of which have engaged in some form of parliamentary support and strengthening.²²

The OSCE, however, is not “another” democracy assistance provider; it has also built up a unique model of parliamentary development, with its own array of programmatic approaches. Professor Robert Nakamura, a former Director of the Center for Legislative Development at Rockefeller College, New York, has classified parliamentary assistance programmes according to the fundamental political theory assumptions that guide them. Nakamura has suggested that three main strategies exist: the institutional model, the party model, and the civil society-based model.²³ The OSCE’s programmatic support has largely fallen under the first two of these models. Under the “institutional” strategy, development assistance targets the problem that “while responsibilities may be great, legislatures in developing societies almost universally lack the means to carry them out”.²⁴ In contrast, under the “party” model, assistance is provided to remedy the problem or underlying issue that “legislative parties [and MPs themselves] [...] often lack the means of reaching out to constituents, have little technical knowledge needed to formulate policies [...] lack the ability to adequately analyze the government’s proposals, and are provided with few legislative venues for the articulation

21 *Parliamentary Strengthening*, Agora – Portal for Parliamentary Development, at: <http://www.agora-parl.org/node/471>.

22 For an overview of the “state of the art” in parliamentary development efforts, see the UNDP Strategy Note, cited above (Note 20); European Commission, EuropeAid, *Engaging and Supporting Parliaments Worldwide, Strategies and methodologies for EC action in support to parliaments*, October 2010, at http://ec.europa.eu/europeaid/what/governance/documents/engaging_and_supporting_parliaments_en.pdf; Arne Tostensen/Inge Amundsen, *Support to Legislatures*, Synthesis Study, Oslo, January 2010, at: http://www.norad.no/en/_attachment/160865/binary/94221?download=true; Hudson/Wren, cited above (Note 12).

23 See Robert Nakamura, *Assessing Three Scenarios for Developing Democratic Legislatures: Implementation Lessons from the Field*, Paper presented at the 2008 Annual Meeting of the American Political Science Association, Boston, Massachusetts, 31 August 2008.

24 Ibid.

and advancement of preferences once formulated”.²⁵ Having established these analytical distinctions, it is important to note that the practice is of course more complex than the theory – parliamentary development programmes often overlap between Nakamura’s categories. Thus, for example, one can find programmes that have simultaneously targeted the strengthening of parliamentary party caucuses as well as the secretariat of parliament.

Field Operations and Parliamentary Strengthening Programmes

In the OSCE, the leading actors in parliamentary development programmes are the field operations. Under the mandates provided by the Permanent Council (PC), a significant number of OSCE field operations have implemented or are implementing activities to support the institutions and functioning of parliaments and other representative bodies. These programmes have often been framed as projects specially funded by one or more participating States (so called extra-budgetary projects) with multiple planned components over a multi-year period, complementing the core programmes of the missions, which are funded through the OSCE’s unified budget (the OSCE’s agreed annual budget to which all participating States contribute). This has been the case in, for example, Albania, Bosnia and Herzegovina, and Montenegro. In some cases, OSCE programmes have been developed based on an explicit mandate by the PC – for example in Albania, where the OSCE Presence is explicitly tasked with “parliamentary capacity-building”.²⁶ For other field operations, parliamentary strengthening programming has been implemented under broader institution-building or democratization mandates.

The above approach has been especially prominent in the OSCE’s field operations in South-eastern Europe, where the larger missions (in terms of staff) and more comprehensive mandates have allowed OSCE field operations to develop parliamentary assistance programmes in greater depth. OSCE field operations in other regions have more often than not engaged in more limited assistance activities aimed at parliaments, such as one-off workshops or study visits. In Central Asia, for example, other priorities have included human rights institutions, policing, border control, and combating corruption. There is significantly less “knowledge regarding the merits of democracy and the rule of law”,²⁷ and parliamentary strengthening projects have therefore taken on a smaller role in comparison to other dimensions. One of the key features and strengths of the OSCE approach to parliamentary strengthening is that the programmes have always been part of a wider institutional context, i.e. the OSCE field operations are implementing and deliv-

25 Ibid.

26 OSCE, Permanent Council, *Decision No. 588, Mandate of the OSCE Presence in Albania*, PC.DEC/588, 18 December 2003, p. 1.

27 Alexander Warkotsch, *The OSCE as an Agent of Socialisation? International Norm Dynamics and Political Change in Central Asia*, in: *Europe-Asia Studies* 5/2007, pp. 829-846, here: p. 843.

ering wider assistance programmes as they relate to democracy, human rights, and the rule of law.

An excellent example is the work of the OSCE Mission in Kosovo, where the Mission's support, since 2001, of the Assembly of Kosovo has been couched and embedded in its wider mandate of institution-building under UN Security Council Resolution 1244 of 10 June 1999, which included support for the construction of a democratic system of government established through the Provisional Institutions of Self-Government set up by the United Nations Interim Administration Mission in Kosovo (UNMIK). In the case of Kosovo, this initially included the devising and administration of the electoral system itself, and later on the establishment of the parliamentary structures elected under this electoral system (the Assembly of Kosovo and the municipal assemblies).²⁸ The way in which these parliamentary programmes have been "embedded" into missions offering wider support in the areas of democratization, human rights, the rule of law, and security sector reform has allowed field operations to incorporate in-house expertise and develop assistance to parliaments that goes beyond the purely technical aspects of building up and maintaining parliamentary administration.²⁹ This is arguably a key advantage of the OSCE's approach to parliamentary strengthening, one that sets it apart from the work of the stand-alone parliamentary strengthening projects run by some democracy support foundations.

Another distinct feature of the work on parliamentary strengthening of the OSCE field operations in South-eastern Europe has been the emergence of regional co-operation among field operations as a key element in assistance programmes. Building on geographical proximity, broadly similar stages in parliamentary development, and linguistic commonalities, the OSCE field operations in South-eastern Europe have been able to develop and implement a number of joint training programmes and regional events for both parliamentary staff and members of parliament. These events have focused on raising the technical knowledge and expertise of beneficiaries on issues as varied as delivering and implementing e-parliament strategies, parliaments and the European integration process, and parliamentary oversight. These field operations in South-eastern Europe have also sought to build closer networks of solidarity and peer-to-peer expertise-sharing among specific categories of beneficiaries, for example secretaries-general of parliamentary administrations and women members of parliament. Nevertheless, the mainstay of the programmes' day-to-day work has been working with parliamentary staff and parliamentarians on the domestic political scene, guiding, assisting, advising, and training them based on the needs identified

28 See Bernhard Knoll/Kara Johnston-Molina, 'A Rocky Path: Kosovo's Transition to Provisional Self-Government', in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2002*, Baden-Baden 2003, pp. 131-150.

29 Notable examples of this include the OSCE Presence in Albania.

by parliament and on the assessment and analysis of the field operations' programmatic staff.

Interventions and projects have been diverse and varied, but can all be traced back to the overall goal of strengthening the capacity of the parliament to legislate, hold the executive to account, and be responsible to the electorate. Thus, for instance, the Mission to Bosnia and Herzegovina as well as the Mission in Kosovo developed a Public Hearings Manual to be used by the legislature with the aim of improving the conduct of public hearings in the legislative and policy-making process.³⁰ Recognizing that IT processes and tools can help to strengthen transparency and efficiency in law drafting and lawmaking processes and can aid the functioning of parliaments in general, some field operations, such as the OSCE Mission to Serbia, have worked with parliaments to implement so-called "e-parliament" solutions.³¹

Several field operations have also worked with members of parliament and parliamentary committees to develop citizen outreach events and programmes. These have included promoting the use of parliamentary committee field visits to investigate and monitor the implementation of laws or to study specific issues, and the better and more extensive use of parliamentary websites and public relations services and material.

Monitoring the performance of parliament has been a key part of some field operations' work. The field operation is thereby able to proactively address issues that arise from parliament's functioning or debates, as well as parliament's adherence to the legal and regulatory framework. For example, the OSCE Mission in Kosovo publishes a regular "Assembly of Kosovo Monitoring Report" which records and analyses the work of the Assembly.³² While most parliamentary assistance activities involve direct advice to parliamentary staff and members of parliament, the use of published monitoring reports can help to raise concerns about the correct functioning of parliaments. The OSCE Mission in Kosovo used its monitoring reports, for example, to encourage the Assembly to publish all questions to the government which had been tabled by members of the Assembly, including all those which had remained unanswered.³³

30 For the Bosnia and Herzegovina Manual, see http://www.oscebih.org/documents/osce_bih_doc_2010122016042890eng.pdf; the Kosovo Manual was developed in co-operation with the National Democratic Institute (NDI) and is available at: http://www.ndi.org/files/ksv_publichearing_010104.pdf.

31 See e.g. National Assembly of the Republic of Serbia, *NARS and OSCE Sign Memorandum of Understanding*, 22 December 2010, at: http://www.parlament.gov.rs/NARS_and_OSCE_Sign_Memorandum_of_Understanding.12782.537.html. For more information, see e.g. Inter-Parliamentary Union and United Nations Department of Economic and Social Affairs, *World E-Parliament Report 2010*, at <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan039336.pdf>.

32 The Assembly of Kosovo Monitoring Reports are available at <http://www.osce.org/kosovo/66128>.

33 Cf. Franklin De Vrieze, Building parliamentary democracy in Kosovo, in: *Security and Human Rights* 2/2008, pp. 121-136, here: p. 131.

With regard to the OSCE field operations, the principle of donor co-ordination – as in other fields of development assistance – has also been a key challenge in the area of strengthening parliaments. In one instance, the OSCE field operation has played a special role in guiding efforts to streamline and co-ordinate donor support for parliament: As head of a special “Assembly Support Initiative”, the OSCE Mission in Kosovo chaired a special group of key donors and the Assembly leadership, thereby helping to prevent duplication and the overburdening of parliamentary staff.³⁴

It is interesting to note that while parliaments are not mentioned directly in some of the early, fundamental human dimension documents such as Copenhagen and Moscow, the reality of the OSCE’s work in parliamentary strengthening has been recognized *a posteriori* by later documents from the OSCE Ministerial Council such as those from Bucharest in 2001 or Maastricht in 2003.³⁵

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) and Parliamentary Strengthening

ODIHR’s democratization programme has also played an active role in supporting and strengthening parliaments in the OSCE region, albeit to a lesser extent than the field operations. One specific early project (implemented in 2006-2008) was direct assistance to the Parliament of Georgia, carried out in co-operation with the now-defunct OSCE Mission to Georgia. The project comprised the development of the Centre for Parliamentary Reform (CPR) in the Georgian Parliament, a special donor-co-ordination facility, which was modelled to some extent on the Assembly Support Initiative in Kosovo (see above). ODIHR’s role in parliamentary strengthening has since moved on to building a partnership with the OSCE field operations’ parliamentary strengthening efforts on the ground by providing expert advice and knowledge products, co-moderating events and regional training measures,³⁶ and

34 See Franklin De Vrieze, OSCE coordinates parliamentary support programmes, in: *Hel-sinki Monitor* 1/2007, pp. 57-63.

35 “ODIHR: Will continue and increase efforts to promote and assist in building democratic institutions at the request of States, inter alia by helping to strengthen [...] parliamentary structures [...]”, The Bucharest Plan of Action for Combating Terrorism, Annex to MC(9).DEC/1, in: OSCE, *Ninth Meeting of the Ministerial Council, 3 and 4 December 2001*, MC.DOC/2/01, Bucharest, 4 December 2001, pp. 8-13, here: p. 10, section 10; “Conflict prevention and post-conflict rehabilitation involve substantial efforts by the Organization [...] in building democratic institutions [...] *inter alia*, by supporting capacity building and helping to strengthen [...] parliamentary structures [...]”, OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century, in: Organization for Security and Co-operation in Europe, *Eleventh Meeting of the Ministerial Council, 1 and 2 December 2003*, MC.DOC/1/03, Maastricht, 2 December 2003, pp. 1-10, here: p. 5, section 27 (emphasis in the original).

36 For a recent example, see OSCE, *Seminar Report, OSCE Regional Seminar for Parliamentary Staffers on Parliamentary Oversight and Independent Institutions*, held in Tirana

building up closed online knowledge-sharing groups for OSCE staff working on parliamentary support. Building on its role as a source of occasional advice and knowledge for the field operations, ODIHR has also acted as a partner for the aforementioned parliamentary strengthening website Agora (run by a consortium of leading actors in parliamentary support, including UNDP, the EU, the National Democratic Institute/NDI, the World Bank Institute, and the International Institute for Democracy and Electoral Assistance/International IDEA).

Beyond direct parliamentary assistance, ODIHR's work in the area of legislative support and legal reform is of crucial importance to parliaments. Legislative support impacts parliament in two key ways. First, ODIHR provides expertise and good practice on human dimension issues as addressed through legislation, and shares these with participating States and their policy-making institutions by giving its opinions on draft laws; these are expounded at round-table meetings and often addressed to legislators in parliaments and legal analysts among parliamentary staff. By issuing special legislative guidelines,³⁷ ODIHR responds to requests from participating States and OSCE field operations to review draft laws for compliance with human dimension commitments. Legislation, opinions, and guidelines are also shared on a free-of-charge online legislation database (www.legislationline.org). Second, by means of its "democratic lawmaking" assessment processes, implemented at the request of OSCE participating States, ODIHR helps OSCE participating States institutions (including ministries and parliaments) to pinpoint areas where their law drafting or lawmaking processes can be made more inclusive, transparent, and efficient.³⁸

The OSCE Parliamentary Assembly: "Parliamentary Diplomacy" as a Form of Parliamentary Strengthening

Although some would argue that the OSCE Parliamentary Assembly (PA), the autonomous assembly of parliamentarians from OSCE participating States, is not an OSCE institution *strictu sensu*,³⁹ it is essential to understanding the OSCE's "parliamentary dimension". Through a series of incremen-

by the OSCE Presence in Albania with ODIHR support in December 2010, at: <http://www.osce.org/odihr/78844>.

37 Such as the OSCE-ODIHR/Venice Commission *Guidelines on Freedom of Peaceful Assembly*, Warsaw 2010, at: http://www.legislationline.org/download/action/download/id/3256/file/FoA_Guidelines_II_Edition_2010_en.pdf, and the OSCE-ODIHR/Venice Commission *Guidelines on Political Parties Regulation*, Warsaw 2011, at: http://www.legislationline.org/download/action/download/id/3499/file/Guidelines%20on%20Political%20Party%20Regulation%202010_en.pdf

38 Such assessments have so far been undertaken (in partial or complete forms) in Georgia, Moldova, the former Yugoslav Republic of Macedonia, and Serbia. For the full assessments, see: <http://www.legislationline.org/search/runSearch/1/category/93>.

39 On this issue, see Beat Habegger, Democratic control of the OSCE: The role of the Parliamentary Assembly, in: *Helsinki Monitor* 2/20062, p. 133-143.

tally agreed working practices, the PA has developed, in effect, an “informal, yet dense network”⁴⁰ within the OSCE’s institutional architecture. Its creation was a specific response to the appeal made by the participating States in the 1990 Charter of Paris for a New Europe to create “a [...] parliamentary assembly, involving members of parliaments from all participating States”.⁴¹

The PA’s activities can be described primarily as “parliamentary diplomacy”,⁴² which is defined as “the international activities undertaken by parliamentarians in order to increase mutual understanding between countries, to assist each other in improving the control of governments and the representation of a people and to increase the democratic legitimacy of inter-governmental institutions”.⁴³ Such “parliamentary diplomacy” is increasingly undertaken through International Parliamentary Institutions (IPIs), the number of which has increased considerably, especially since the Second World War; one estimate suggests that there are at least 68 of these, of various sizes and purposes, in existence.⁴⁴

“Parliamentary diplomacy” activities, as undertaken by the OSCE PA and other IPIs, are considered to be an integral part of the family of international parliamentary development activities.⁴⁵ The OSCE PA explicitly sees one of its missions as “support [for] the strengthening and consolidation of democratic institutions in the OSCE participating States”.⁴⁶ This mission has also been recognized and welcomed by the Istanbul Summit of OSCE Heads of State or Government in 1999.⁴⁷ The core work of the PA – its sessions and debates – (like that of a number of other IPIs) serves a number of key parliamentary strengthening purposes: At a primary level, parliamentarians gain information and expertise from debates and informal contacts, thereby increasing their capacity to contribute to parliamentary business; this includes conducting oversight of executive decision-making, including in the area of foreign policy. Indeed, the kind of thematic and regional seminars that the PA has undertaken⁴⁸ are a form of “capacity building” for parliamentar-

40 Ibid., p. 142.

41 Charter of Paris for a New Europe, Paris, 21 November 1990, in: Bloed (ed.), cited above (Note 1), pp. 537-566, here: p. 549, also available at: <http://www.osce.org/mc/39516>.

42 Andreas Nothelle, The OSCE Parliamentary Assembly – Driving Reform, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2006*, Baden-Baden 2007, pp. 347-373, here: p. 347.

43 Frank W. Weisglas/Gonnie de Boer, Parliamentary Diplomacy, in: *The Hague Journal of Diplomacy*, 2 (2007), pp. 93-99, here: pp. 93-94.

44 Cf. Zlatko Sabic, Building Democratic and Responsible Global Governance: The Role of International Parliamentary Institutions, in: *Parliamentary Affairs* 2/2008, pp. 255-271, here: pp. 260-261.

45 See for instance European Commission, EuropeAid, cited above (Note 22), p. 92; Sabic, cited above (Note 44).

46 OSCE Parliamentary Assembly, Rules of Procedure, 25 March 2011, Part I, Rule 2 (b), available at http://www.oscepa.org/index.php?option=com_content&view=article&id=223:PART%20I&catid=35:Rules%20of%20Procedure.

47 Cf. Cf. Charter for European Security, section 17, in: Organization for Security and Co-operation in Europe, *Istanbul Summit 1999, Istanbul Document 1999*, Istanbul 1999, p. 5. Article 17.

48 For an extensive overview, see Nothelle, cited above (Note 42) p. 367.

ians, in that they have often addressed topics which are problematic for emerging or transitional democracies:

In an organization like the OSCE, whose participating States are at very different stages in the development of parliamentary democracy, the international level is often the only opportunity for some parliamentarians to receive important information that enables them to exercise their control function.⁴⁹

At the same time, exchanging information via bilateral or multilateral contacts can be valuable even for parliaments from democracies with a longer track record, as the former Speaker and Secretary-General of the Dutch Parliament have recognized:

Democracy is not a static condition - there is no real 'end state' that can be achieved. Parliamentary diplomacy, therefore, is also of great importance to provide periodically both developing as well as developed countries with a mirror to examine their own virtues and faults.⁵⁰

As a result of participation in a common democratic framework for debate, basic norms of democratic parliamentarism are reinforced as well; this too should be seen as a form of training, particularly for parliamentarians who come from environments where debate in parliament is either minimal or highly polarized. While its activities are difficult to benchmark and its outcomes hard to measure, there may well be a "socialization" effect at play, in that peer-to-peer meetings spread and reinforce a positive *esprit de corps* mentality among parliamentarians.⁵¹ This is particularly valuable for parliamentarians from countries where the value of parliament as an institution and the core work of a member of parliament are underestimated and seen as "second fiddle" to a powerful executive.

Conclusion: Towards OSCE Principles for Parliaments?

This article has "mapped" the presence of parliaments in the OSCE's commitments in the human dimension, comparing and contrasting the commitments with the practice of the OSCE's institutional support programmes. In an overview of the under-studied parliamentary aspect of the OSCE's work, this paper has argued that the ostensible omission of parliaments from the key declarations of the early 1990s should not be interpreted as an underestima-

49 Ibid., p. 348.

50 Weisglas/de Boer cited above (Note 43), p 96.

51 Such effects have been studied *inter alia* in Trine Flockhart, "Masters and Novices": Socialization and Social Learning through the NATO Parliamentary Assembly, in: *International Relations* 3/2004, pp. 361-380.

tion of the role of parliaments in the OSCE's doctrine of human security. Rather, the tacit recognition of parliament in many of the key principles outlined in the commitments, as well as the evolution of a substantial body of programmes and practices that target parliaments, suggest that parliaments are an essential element of the OSCE's human dimension doctrine. This article's introductory overview of the "parliamentary dimension" of the OSCE's democratization work should be grounds for outside actors as well as OSCE policy-makers and staff to regard the OSCE as one of the key actors working in the field of parliamentary support and strengthening. By way of conclusion, one may suggest that a greater recognition of the OSCE's role as a parliamentary strengthening actor could be accompanied by an increased effort on the part of the OSCE and its institutions to compile and develop OSCE guidelines, standards, or recommendations for parliaments based on the practice of OSCE participating States.

This would arguably play to one of the OSCE's strengths as an organization: the ability to couple clear and unique standards and norms with effective programmes of assistance tailored to those norms and principles. In this regard, it would be consistent with an emerging trend in the world of parliamentary assistance, namely an accelerated move towards developing comprehensive international "standards" and "benchmarks" to measure the quality of parliamentary democracy. Notable efforts have included (but are not limited to) the Commonwealth Parliamentary Association's *Benchmarks for Democratic Legislatures* (2006), the National Democratic Institute's *Toward the Development of International Standards for Democratic Legislatures* (2007), the Inter-Parliamentary Union's *Self Assessment Toolkit for Parliaments* (2008), and the *Critères d'évaluation* of the Parliamentary Assembly of the Francophonie (2009).⁵² The Council of Europe, arguably the OSCE's closest institutional partner, has also moved forward in its consideration of the development of similar standards and guidelines for parliaments.⁵³

52 For a good overview, see UNDP, *Benchmarks and Self-Assessment Frameworks for Democratic Parliaments*. Brussels/New York 2010, at http://capacity4dev.ec.europa.eu/sites/default/files/documents/topic/Benchmarks_and_self-assessment_frameworks_for_democratic_parliaments.pdf.

53 See Council of Europe Parliamentary Assembly, *Motion for a resolution: Towards a model rulebook for self-evaluation by Europe's national parliaments*, Doc. 11774, 11 December 2008, at: <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc08/EDOC11774.htm> (a draft report is under elaboration by Andreas Gross, Member of the Parliamentary Assembly of the Council of Europe); see also Council of Europe Parliamentary Assembly, *Resolution 1601 (2008), Procedural guidelines on the rights and responsibilities of the opposition in a democratic parliament*, at: <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta08/eres1601.htm>. The Venice Commission has also adopted some opinions examining standards for democratic parliaments, see e.g. Council of Europe, European Commission for Democracy Through Law (Venice Commission), *Report on the Role of the Opposition in a Democratic Parliament*, CDL-AD(2010)025, Venice, 15-16 October 2010, at: [http://www.venice.coe.int/docs/2010/CDL-AD\(2010\)025-e.pdf](http://www.venice.coe.int/docs/2010/CDL-AD(2010)025-e.pdf).

OSCE efforts to move towards standards consolidation could draw upon the practices of OSCE regional parliaments, the commitments adopted by the participating States (Helsinki, Copenhagen, Moscow), recommendations developed by the OSCE Parliamentary Assembly, and the expertise and practice of the well-established parliamentary strengthening programmes that are a core element of the OSCE's institutions and field operations.

Reviving OSCE Democracy Support

The OSCE has much unfulfilled potential in the area of support for democracy. The Organization's Copenhagen Document had significant transitional influence in the 1990s and provides the OSCE today with a comprehensive body of democracy-related commitments. The subsequent Moscow Document of 1991 further developed mechanisms to help implement these commitments. Most of the OSCE's participating States recognize the Organization's track record in building democracy-related agreements nested within a variety of security-related concerns.

However, the implementation of the Copenhagen and Moscow Documents now stands much diminished. OSCE States have become less active and assertive in urging compliance with these agreements. This retrenchment is particularly evident with regard to the human rights- and democracy-related achievements of the early 1990s. Many of the Organization's members now cast doubt over whether the OSCE has any future as an organization that uses concrete mechanisms for actively promoting democracy. Assistance for democratic reform in OSCE participating States in Eastern Europe, the South Caucasus and Central Asia is nowadays pursued mainly on a national basis by individual governments or through EU institutions and international non-governmental organizations.

While the political context conditioning the OSCE's democracy policies has changed significantly, it would be premature to assign the Copenhagen and Moscow Documents to the realm of unrealizable aspiration. We shall assess how they can help enhance the effectiveness of democracy programming activities on the ground. National and EU documents and strategies that deal with Eastern Europe, the South Caucasus, and Central Asia still frequently refer to OSCE standards in the sphere of democracy. The challenge lies in ensuring that the commitments made in the documents can help to revive the OSCE's democracy support programmes.

This article analyses the significance of the OSCE Copenhagen and Moscow Documents of the early 1990s as a basis for investigating ways to make increased use of democracy commitments in the practical programming currently undertaken by ODIHR and other OSCE institutions and activities such as the field operations. The article compares the two documents with the activities of other organizations, foremost among them the European Union, the Council of Europe, and the United Nations; this comparison is necessary to help the OSCE to develop better niche areas of relative expertise. The paper concludes with five broad recommendations to "revive" the spirit of Copenhagen through practical democracy programming.

The OSCE's June 1990 Copenhagen Document was highly significant not just for the Organization itself, but also for the wider panoply of international democracy commitments. The document was designed as a tool of wide-ranging co-operation, but in particular helped pave the way for democracy-support strategies that were subsequently adopted by a range of other organizations.

The political and historical context that produced the Copenhagen Document is well-known. The CSCE was well-placed to play a vanguard role in democracy and human-rights promotion by virtue of its wider strategic importance during the final years of the Cold War. The early 1990s witnessed substantial growth in CSCE participating States' commitments to democracy and human rights. The end of the communist regimes in Eastern Europe, plus reforms in the USSR, engendered revolutionary support for democratic change. The United States and Western European countries saw the CSCE as a useful vehicle for promoting democratic change in the Eastern bloc through consensual discussion and agreements.

The June 1990 Copenhagen Document states that "pluralistic democracy and the rule of law are essential for ensuring respect for all human rights and fundamental freedoms".¹ It does so in five chapters, in which the link between democratic governance and the rule of law is pivotal. Indeed, the document was significant in deriving its conceptualization of democracy from a particularly broad and well-developed definition of the rule of law. The text states that governments should protect human rights and fundamental freedoms, and can do this only through the rule of law; democracy is regarded as an integral element of the rule of law.

The commitments included in the rest of the document are in line with those adumbrated by other organizations, mainly the UN and the Council of Europe, in areas including elections, independent media, freedom of expression and association, and constitutional law. Particular emphasis is placed on certain topics, such as the rights of children, migrants, and prisoners; the issues of conscription, torture, and capital punishment; minorities; and racial and ethnic hatred, anti-Semitism, xenophobia, and discrimination.

Other international organizations developed similar standards using the Copenhagen Document as a reference point. This applies in particular to the European Union and NATO, which sought a formulation of democracy criteria with a view to guiding the enlargement process. The OSCE's framework drew strength from, among other things, the large number of states that had pledged themselves to the Copenhagen Document. Moreover, the Copen-

¹ Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe, Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 439-465, here: p. 440; also available at: <http://www.osce.org/odihr/elections/14304>.

hagen Document served as the basis for a plethora of subsequent OSCE commitments. It was soon buttressed by the Paris Charter of November 1990, in which the participating States agreed “to build, consolidate and strengthen democracy as the only system of government of our nations”.²

A year later, the participating States agreed to the Moscow Document.³ In the preamble to this document, participating States declared that “they categorically and irrevocably declare that the commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned.” At first sight this would seem to be a supranational aspect of an intergovernmental organization, were it not for the fact that the OSCE agreements are political by nature and not legally binding. The formulation did, however, offer a strong notion of joint commitment to democracy and it strengthened the idea of comprehensive security in which the lack of democratic practice in one country can have a negative bearing on its partners.

The Moscow Document was especially significant in attempting to strengthen the monitoring mechanism. This is one of the few OSCE mechanisms that do not require consensual decision-making. One such use of the mechanism is the provision to ask *rapporteurs* to investigate abuses of human rights and democratic standards. While the mechanism has a great deal of potential, it has not been mobilized in any systematic fashion. The OSCE’s capacity to set up a group of *rapporteurs* quickly is limited, findings are not binding, and the political follow-up is patchy at best.

The mechanism can be initiated if one OSCE participating State, supported by at least nine others, considers that a serious threat to the fulfilment of the provisions of the (OSCE) human dimension has arisen in a participating State. It allows for an investigation to be launched without consensus and independently of the OSCE’s Chairmanship, institutions, or decision-making bodies. In practice, tensions concerning the human dimension and participating States’ growing reluctance to openly “name and shame” democratic transgressors have limited the use made of the Moscow Mechanism. The OSCE lacks a system of sanctions and cannot force a member to comply. Indeed, the Mechanism has been invoked only a handful of times and only once since 2003 when it was used in Turkmenistan (although the *rapporteurs* did not have access to that country). The Andijan massacre in Uzbekistan in 2005 and the ethnic violence in Kyrgyzstan in 2010 are two of the most serious abuses that have been perpetrated, but arguably they met with insufficient response from the OSCE. These were precisely the kind of issues that the Moscow Mechanism was designed for. In April 2011, 14 OSCE participating

2 Charter of Paris for a New Europe, Paris, 21 November 1990, in: Bloed (ed.), cited above (Note 1), pp. 537-566, here: p. 537; also available at: <http://www.osce.org/mc/39516>.

3 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 1), pp. 605-629; also available at: <http://www.osce.org/odihr/elections/14310>.

States invoked the Mechanism in response to Belarus's closure of the OSCE Office in Minsk and its stalling in the implementation of its OSCE commitments. If it is not deployed sufficiently and in the most necessary cases, the operational relevance and efficiency of the OSCE's Moscow Mechanism can be questioned.

Implementation: Advances and Shortcomings

A great deal of focus has been placed on flaws in the OSCE's monitoring of democratic credentials. But the issue of democracy support programming is also salient. The Copenhagen Document does not mention "democracy support" and was not designed explicitly with this in mind. Yet it is clearly germane to assess how the standards defined in the two crucial documents outlined above relate to the OSCE's own programming activities. The OSCE promotes democracy through assistance programmes in countries that welcome such support, and ODIHR and the field missions are the main actors undertaking democracy assistance programmes.

ODIHR's monitoring task is threefold. First, it follows human rights developments, reminding participating States of shortcomings – although over the years, ODIHR has become more careful in confronting countries publicly. ODIHR increasingly uses "quiet diplomacy" via letters to high officials to urge participating States to address shortcomings. Second, it organizes annual Human Dimension Implementation Meetings, supplementary meetings, and seminars in co-ordination with the Chairmanship in order to encourage peer review among OSCE States on selected topics. Third, it has election observation and assessment as its core mandate.

The first monitoring activity specified above is broad and looks at the whole range of human-dimension issues such as combating trafficking in human beings; Roma and Sinti issues; monitoring freedom of association, assembly, and religion; civil society; freedom of movement; rule of law; gender equality; and combating racism and related forms of intolerance. It is impossible for ODIHR to keep track of all human-dimension-related issues in all participating States on an annual budget of some 15 million euros (about ten per cent of the entire OSCE budget). This is one of the reasons why the Office relies largely on information provided by missions on the ground. The limited budget also makes it important to choose topics for monitoring, instead of trying to cover all issues and doing so ineffectually. The topics for the human-dimension meetings are only proposed by ODIHR and submitted to the Permanent Council by the Chairman-in-Office for approval.

The annual meetings serve to review implementation and give the national delegations the opportunity to debate the human dimension. Although independent experts are invited, the meetings are essentially political; even the agenda has to be agreed upon by consensus beforehand by the Permanent

Council in Vienna. Most of its scope is left to focus attention on less sensitive – though still conscientiously debated – topics that are part and parcel of the human dimension, such as promoting diversity and participation in pluralist societies and reinforcing the fight against intolerance, discrimination, and trafficking in human beings. The annual reviews and the Human Dimension Meetings are still important opportunities to take stock of progress by states in implementing commitments relating to the human dimension, and to develop new areas of engagement.

In election assessment and observation, ODIHR benefits from almost two decades of experience. In that period, a thorough methodology was developed. Long-term observation missions undertaken by ODIHR constitute the backbone of the exercise, which is complemented by the more visible short-term observation missions of experts and elected representatives.⁴ This part of its mandate has become a source of tension between several CIS members on the one hand, and the US, the EU, and countries with a Euro-Atlantic integration perspective on the other. The former group, led by Russia, believes that the great attention paid to CIS members' elections has stirred unrest because initial reports on the quality, fairness, and freeness of the elections are immediately made public and can serve as a powerful tool in the hands of a defeated opposition or even revolutionary forces. The debate was intensified after the "democratic revolutions" in Georgia (2003) and Ukraine (2004). One of Russia's reactions was to hinder ODIHR participation in the observation of the 2007 parliamentary and 2008 presidential elections and to curtail the number of observers. Russia and several other CIS members remain critical of ODIHR and believe it is too independent of consensus procedures that take place in the Permanent Council. Moreover, Russia complains that elections are not monitored thoroughly "West of Vienna". The increase in attention paid to the more shallow election assessments in Western Europe have done little to change that perception.

The examples of the "democratic revolutions" in Georgia and Ukraine were significant as they highlighted the crucial role of international election observation based on a thorough methodology. Critical ODIHR post-election reporting was thought to incite revolution by some participating States. A contrasting case was the Moldovan election in April 2009, which was assessed by international observers as "positive on the whole", although riots still broke out and the opposition demanded new elections; Moldova had a change of government a few months later after new elections.

Those who support ODIHR election observation do so because they recognize the unique methodology and high professional standards that are applied during missions. A focus on strengthening longer-term observer mis-

4 For further information on OSCE/ODIHR election observation, see: Nicolas Kaczorowski, Election Monitoring: Lessons Learned and Possible New Orientations, in: Daniel Warner (ed.), *Consolidating the OSCE*, PSIO Occasional Paper, 4, Geneva 2006, pp. 107-124, and Hrair Balian, ODIHR's election work: Good value? in: *Helsinki Monitor* 3/2005, pp. 169-175.

sions in order to supplement the familiar short-term observers that flood a country for a few days has received greater attention in recent years. Nowadays, accumulated knowledge can also be used outside the OSCE area, as was the case in 2009 in Afghanistan; the latter welcomed an election support team for its presidential and local elections. But within the OSCE area, too, ODIHR election monitoring experience has helped other organizations, especially the EU, to improve their approaches to the electoral cycle.

In addition to its extensive monitoring function, ODIHR is also involved in rule of law, civil society, and democratic governance programmes. It does so mainly, although not exclusively, via training and awareness raising. ODIHR supports programming in relation to all aspects of the Copenhagen Document, which particularly concern the rule of law, democracy, and human rights – with the exception of free media and minorities, which are dealt with by the Hague and Vienna offices. Illustrative examples: ODIHR organizes training for police officers in the OSCE area on how to prevent hate crimes, and it hosts round tables on a variety of human dimension-related topics such as gender rights and extremism, which mostly address a civil society audience.

Warsaw-based ODIHR also offers legal advice on national legislation in the human dimension. It comments on draft laws (if requested by a participating State or OSCE field mission) and brings expertise in law-making to bear via recommendations and workshops. This legal capacity is often coordinated with the Council of Europe's Venice Commission.

Next to ODIHR, the field missions play a leading role in OSCE democracy monitoring and programming. The OSCE is currently active with field operations in seventeen countries, ranging from the Balkans to Central Asia. The missions differ in size and mandate, but one way or another all are involved in monitoring human-dimension commitments and in programming. The monitoring aspects lie in the daily work of field mission staff, while the Heads of Mission report to the Chairperson-in-Office and the Permanent Council on violations of commitments in specific countries.

The breadth of mandate has often been controversial. In 1999, the Mission to Ukraine was downgraded to an OSCE Project Co-ordinator, bereft of a monitoring and reporting mandate. In 2006, Uzbekistan succeeded in reducing the OSCE Centre in Tashkent to a Project Co-ordinator, who is unable to meet freely with NGOs and has a time-limited mandate. Other Central Asian regimes have contemplated similar options. The exception is Tajikistan, which in 2008 approved a strengthened mandate that has resulted in more funds, projects, and staff for the OSCE Office in Tajikistan. Overall, democratization activities in Central Asia are limited. While there has been some progress in democratization projects in Kazakhstan, the work of the OSCE generally in the Central Asian republics has been minor or seriously curtailed.

In June 2009, the OSCE's most substantive South Caucasus mission was closed: The mandate of the Mission to Georgia could not be extended because of disagreement over the status of South Ossetia, where the OSCE acted through mediation and observers on the ground. The Russian government argued that the OSCE could work in South Ossetia only through a new and separate mission, thus forcing other participating States indirectly to recognize South Ossetian independence. Most OSCE States wanted to have access to South Ossetia through the Georgia Mission, which had been the case up to the outbreak of war in August 2008. A Russian veto ended the OSCE's work in Georgia, and the UNDP has taken over most governance programming in Georgia.

In Eastern Europe, OSCE missions focus less on democratization programming. In Belarus, the mandate and the host country restricted the scope for this,⁵ while in Moldova emphasis has been placed on the settlement of the Transdnistrian conflict, although several democratization programmes are being implemented through the Mission in Chişinău. In the South Caucasus, the OSCE Offices in Baku and Yerevan undertake projects that are particularly (although not exclusively) related to freedom of the media, electoral reform, and civil society capacity-building.

OSCE programming in the Western Balkans covers almost every aspect of democratization: capacity-building and good governance in national and local authorities; parliamentary oversight; the rule of law and the judiciary; the development of political parties; gender issues; and media and civil society support. Civil-military relations and security-sector governance can be taken up in the politico-military dimension, and are obviously relevant for democratization. Good-governance programming often constitutes part of the OSCE's economic dimension.

The OSCE spends 65 per cent of its budget on field operations. The largest share of these funds goes to operations in the Western Balkans and, more specifically, the operations in Bosnia and Herzegovina and Kosovo. Nonetheless, the budgets for most field operations and their work in promoting democracy are dwarfed by many other donors' efforts. It is possible for participating States and associated countries to support projects through extra-budgetary donations. These funds are important since they do not have to be approved by the Permanent Council, although they are invariably limited in magnitude.

OSCE Comparative Advantages

It will be important for the OSCE to find niche comparative advantages relative to other organizations. Several other international bodies are active across the same region in supporting democracy and human rights. There is

5 Nonetheless, the OSCE mission to Minsk was forced to close on 31 December 2010.

an increasingly confusing overlap between these organizations' initiatives and programmes.

Council of Europe (CoE) activities cover monitoring, policy guidance, and technical assistance in a greater number of human rights and democratization areas; unlike the OSCE, the CoE does not include transatlantic partners or Central Asian states. The OSCE has the advantage in terms of geographical breadth.

The United Nations Development Programme (UNDP) has a strong presence in the OSCE region and increasingly pursues democratic governance objectives, in particular by supporting public administration and local government reform and citizen participation. It remains heavily focused on relatively technical governance issues and not on the key political questions that (ostensibly) lie at the core of the OSCE's mandate.

The European Union (EU) is also active in promoting democracy in the OSCE area and often refers to OSCE human-dimension agreements in documents concluded with partner states to the east. It does so through, for example, the European Neighbourhood Policy (ENP), the more recent Eastern Partnership (EaP), which specifically applies to Eastern European and South Caucasian states of the ENP, and the 2007 EU Strategy for Central Asia. Besides using the OSCE as a reference point, the EU is also a substantial supporter of the OSCE's work. EU member states provide 70 per cent of the OSCE's annual budget and support OSCE institutions, including ODIHR, with extra-budgetary funds for specific programmes. The OSCE's advantage is, once again, that its standards are formally backed by a wider range of states and may thus be used as a legitimizing tool by the EU.

The Copenhagen Document outlines in detail the commitments of the participating States to hold free elections, while the Charter of Paris established the Office for Free Elections in Warsaw (since 1992: ODIHR) "to facilitate contacts and the exchange of information on elections within participating States". Since then, the CoE (through European Court of Human Rights case law and the efforts of the European Commission for Democracy through Law – the "Venice Commission") and the UN at the global level have also contributed to the development of election standards.

Although delegates from the European Parliament and the CoE Parliamentary Assembly participate in international election observation missions along with the OSCE/ODIHR delegations, the EU relies heavily on the latter's expertise. It routinely refers to ODIHR assessments and recommendations under the rubric of, for example, the ENP Action Plans. Only ODIHR has sufficient political capabilities and expertise to ensure long-term election observation.

On the basis of OSCE documents, ODIHR's work focuses on various aspects of democratic governance that go beyond electoral democracy and include such issues as transparency of the policy and legislative process, citizen participation in policy-making, and multi-party democracy. In these

fields, ODIHR programming complements that of the UNDP's work in the OSCE region. The Venice Commission also provides opinions on draft legislation on issues relating to political parties. A number of European and American private foundations active in the region also work on issues of government transparency and accountability, citizen participation, and assistance in improving intra-party democracy.

ODIHR's work on issues such as the fight against racism, anti-Semitism, xenophobia, and intolerance, and on strengthening the rule of law and independence of judiciaries is complementary to the efforts by other organizations – the European Commission against Racism and Intolerance (ECRI), the UN Committee on the Elimination of Racial Discrimination (CERD), and EU/CoE joint programming relevant to rule of law and judiciary issues.

While the UN, the CoE, and the EU focus on human rights through monitoring and assistance mechanisms, ODIHR's niche rests in the overlap between the human dimension and security. Its programming focuses on the complex relationship between human-rights protection and security, for example by providing legal advice and technical assistance on human-rights protection in the fight against terrorism by and within armed forces. Other organizations deal with such issues, but their formal standards and commitments are less well-developed than those of the OSCE.

Through the OSCE Representative on Freedom of the Media (RFOM), the Organization plays an important role in monitoring media freedom and journalists' rights. The RFOM provides early warning on violations of freedom of expression and promotes full compliance with OSCE media-freedom commitments. Importantly, the RFOM observes media developments and makes relevant statements on countries both "East and West of Vienna". The RFOM's monitoring and early warning activities are reinforced with assistance relating to freedom of the media, professional journalism, and access to public information provided by the OSCE field missions. None of the other organizations working in the OSCE area undertake quite such systematic monitoring or assistance in this field.

Another distinctive field of activity for the OSCE is provided through the institute of the High Commissioner on National Minorities (HCNM), which is an instrument for conflict prevention at the earliest possible stage with regard to tensions involving national-minority issues. Commitments to protect national minorities have been undertaken by the OSCE participating States in a number of CSCE/OSCE documents from the Helsinki Final Act through the Copenhagen and Moscow Documents to the decision to establish the HCNM post at the Helsinki Summit in 1992. Again, this is an area that is relatively underplayed by other organizations.

A final potential comparative advantage of the OSCE is that it links human rights and democracy with security. The organization that focuses most on promoting democratic practices in security matters is NATO, but its

democratization efforts concentrate on defence reform and apply mostly to countries that seek membership. The OSCE goes much further in addressing the broader security sector. It has a wealth of experience in support of policing services, border guards, and civil-military relations in OSCE participating States. It is true that in practice, the linking together of the OSCE's politico-military and human dimensions leaves much to be desired; yet this remains an area that is emphasized and should be strengthened as a relatively strong point compared to the standards of other organizations.

Ways Forward

All in all, three steps lead us to consider how OSCE democracy programming and monitoring can be revived: First, the Copenhagen and Moscow Documents contain a wide range of standards that can serve as founding reference commitments; second, implementation of these commitments has become progressively more tepid; and third, despite all the difficulties, the OSCE can still count on several comparative advantages relative to other organizations.

There are no magic solutions for improving programming activities. Ultimately, the political context remains crucial. As long as familiar political differences persist, the scope for advances at the micro-level of programme implementation will be restricted. There is simply no escape from this reality. Nevertheless, there may be some limited room for harnessing agreed OSCE standards and commitments to inject more energy into democracy-funding and monitoring on the ground.

Most noticeably, ways must be found for ODIHR to increase funding sources for its programming. European Union member states in particular should be pressed to increase their hitherto very limited "extra-budgetary funding" to ODIHR. The proposed reform of some EU funding procedures to introduce more flexibility should also be considered. The scope for project-based funding is increasing and might represent a potential growth area for the OSCE. This will revive the proactive role the Organization has played in setting broad standards in the fields of rule of law, minorities and other issues and serve as a solid basis for enhanced programming.

It is at this level that co-ordination with other organizations is required. OSCE officials insist that there is already sufficient information exchange and high-level dialogue with the EU, the Council of Europe, and the UN in the field of democracy promotion and monitoring. But there remains a need for quicker progress on the ground to ensure the effective division of labour. The different organizations still sometimes appear to act as competitors rather than partners. This does a disservice to citizens pressing for reform in their respective countries. The rare positive examples should be built upon. Georgia was one such example, with the UNDP taking over OSCE projects when the latter was forced to close its field mission.

The role the OSCE could play through its all-inclusive membership and broad scope of interest should be one of a bridge-builder between, first, regional organizations active in democracy promotion and monitoring (EU, CoE, UN); and second, regional security organizations that have little contact with each other in the OSCE area, such as the EU and NATO, on the one hand, and the “Eastern” regional security initiatives, primarily the Collective Security Treaty Organization (CSTO) and the Shanghai Cooperation Organisation (SCO), on the other. Whereas these organizations might not have a “human dimension”, they are developing into regional security actors that have weak links with the EU or NATO. In short, the OSCE with its inclusive membership could help to build bridges between organizations and create a common security discourse that takes in not just both sides of the Atlantic – but also and especially the former “East” and “West”.

One of the OSCE’s advantages is the depth of its presence on the ground in the form of field missions. This is the case particularly in Central Asia, where fewer international organizations are active and fewer OSCE participating States have embassies. A new effort is needed to exert pressure and offer incentives to prevent states from reducing missions to merely humanitarian engagements. The field missions also need more professionalized and qualified personnel. The OSCE is good at quiet diplomacy and monitoring emerging threats, but it must link these functions more systematically to difficulties experienced by missions and projects on the ground.

A promising way forward would be to renew the spirit of linking democracy to comprehensive, collective security. The OSCE’s comparative advantage is that it nests democracy promotion within a broader set of security objectives. It is also valuable to the extent that it gives scope for trade-offs and leverage. Of course, the link between conflict resolution and political reform remains the area where the OSCE is expected to play a distinctive role just as it does in facilitating mediation – with the Organization having been chosen as the vehicle for conflict resolution in Transdniestria and Nagorno-Karabakh.

Efforts must be made to seek a quid pro quo that can temper the dissatisfaction of those states that have blocked most of the OSCE’s democracy work in recent years: For the OSCE to support democracy more effectively, it must take on board Russia’s security concerns and intensify co-operation at the level of shared hard-security challenges. Returning to the spirit of co-operative security will itself open the way for a greater focus on democracy.

To make this work, the US must change its position on the question of the OSCE. It has sought to use the OSCE as a means of undertaking critical scrutiny of former Soviet states, but has been hesitant to back its status as a fully-fledged pan-European security organisation. Washington must recognize that the former is not possible without the latter. The signs are positive, though, with Vice President Joe Biden’s May 2010 proposal for OSCE crisis-

prevention mechanisms and reference to an increased security role for the Organization.⁶

It has also been suggested that the EU “should seek to foster the return to co-operative security in the OSCE, recognizing that it is impossible to achieve the desired transformation without addressing the alienation experienced in those countries where it is hoped the transformation will take place”.⁷ There is a clear link between OSCE and EU democratization standards and assistance. But the link with the EU’s overarching security policy needs to be strengthened. In practical terms, this should entail linking the democracy *acquis* to the security sector through enhanced programming. Democratization and security meet in a practical context in the field of security sector reform (SSR). The OSCE has been a frontrunner in SSR with the 1994 Code of Conduct on Politico-Military Aspects of Security, which serves as a guideline for participating States on how to run defence and security structures in a democratic fashion. It tackles issues such as the democratic control of armed forces and international transparency of defence matters. Although the Code is comprehensive and refers not only to armed forces but also to police and intelligence services, it has been partly overtaken by events. It does not, for instance, take terrorism and its implications for civilian control of security into account. Security sector reform goes somewhat further than the Code and is currently being advanced in EU and OECD documents.

The OSCE has not yet been able to agree on a new security sector reform text, although some participating States have made proposals over the last few years. However, a new and up-to-date text is not necessary for the OSCE to engage on this broad issue. The OSCE deals with the topic through its field missions and work with armed forces, police, border guards, ministries, parliaments, courts, civil society, etc. All these institutions are part and parcel of the security sector. As part of SSR, the focus can also be on governance (security sector governance) which brings the theme even closer to democratization and the provisions laid down in the Copenhagen Document.

Whereas several “less democratic” OSCE members resist activities involving the human dimension, the topic of SSR is dealt with mostly in the politico-military dimension. There have already been positive examples of the OSCE organizing workshops on issues such as democratic control of the armed forces and security sector governance. This is an opportunity to address issues of democracy and security in transitional societies that only recently opened up their security sectors to public debate. SSR is nowadays a well understood topic in most of the OSCE area, but it will be a challenge to pursue extensive training and projects in Central Asia, where armed forces

6 Advancing Europe’s Security, Op-Ed by Vice President Joe Biden, *International Herald Tribune*, 6 May 2010.

7 Pál Dunay, *The OSCE in Crisis*, Chaillot Paper no. 88, Paris 2006, p. 73.

and internal security structures remain the means of safeguarding the regimes rather than the local populations. In the South Caucasus, too, SSR is beneficial in tying security threats to overall democratic practice. This is a field where the OSCE can grow further, but it must work to mainstream human-rights standards into security training. At present, the latter tends to include relatively vague and generic human-rights modules that fall well short of a concerted effort to increase tangible civilian control over security forces.

Finally, in light of recent events, consideration could be given to expanding the partnership with Mediterranean countries with a view to implementing programmes in Algeria, Egypt, Jordan, Morocco, and Tunisia. This would be a good way for ODIHR to expand on the basis of democracy assistance projects if so requested by the countries concerned.

III.

Organizational Aspects

External Relations and Influence

The OSCE and Change in the South Mediterranean: A New Opportunity for the OSCE Mediterranean Partnership?

In the *Astana Commemorative Declaration*, participating States reaffirmed that “security of the OSCE area is inextricably linked to that of adjacent areas, notably in the Mediterranean and in Asia” and pledged to enhance the level of interaction with the OSCE Partners for Co-operation.¹ But when 56 Heads of State or Government gathered in Astana in December 2010 for the first OSCE Summit in eleven years, no one could have foreseen the extraordinary events that would sweep over the South Mediterranean in the subsequent months.

The popular revolutions in Tunisia and Egypt, driven by the most basic human longings for freedom, dignity, and justice, as well as greater political participation and more economic and social opportunities, followed by the promises of reform in Morocco and Jordan and the uprisings in Libya, Yemen, Bahrain, and Syria, have offered a unique chance to build a brighter future for the entire region. What soon became known as “the Arab Spring” or – as many in the region prefer to call it – “the Arab Awakening” has also vividly reminded the world of the power and appeal of democratic values and fundamental human rights, including those enshrined in the CSCE/OSCE *Helsinki Final Act*. These were the very values that inspired democratic revolutions in the CSCE/OSCE area more than 20 years ago – a tectonic shift that produced the 1990 *Charter of Paris for a New Europe*, which declared the opening of “a new era of democracy, peace and unity” on the continent and recognized democracy “as the only system of government of our nations”.²

For the OSCE, which enjoys a long-standing partnership with six South Mediterranean countries – Algeria, Egypt, Israel, Jordan, Morocco, and Tunisia – the historic change in the region has raised an immediate question as to what the Organization’s role might be in support of democratic transition in the Partner States that have embarked on that road. In a broader partnership context, the unprecedented developments in the region have also pro-

Note: The views expressed within this contribution are those of the authors and not necessarily official positions of the OSCE.

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. 3, at: <http://www.osce.org/mc/74985>.

2 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, here: p. 537, also available at: <http://www.osce.org/mc/39516>.

vided a most timely opportunity to reflect on how the OSCE Mediterranean Partnership could be reinvigorated and raised to a new qualitative level.

Supporting Democratic Transition in the South Mediterranean

As the Egyptian revolution was unfolding, renowned British historian and political writer Timothy Garton Ash wrote a commentary in which he argued that “Europe’s future is at stake this week on Cairo’s Tahrir Square, as it was on Prague’s Wenceslas Square in 1989”.³

Indeed, ever since its inception in 1975, the OSCE Mediterranean Partnership has been based on the premise that security in the OSCE area and security in the Mediterranean are closely interdependent, while the OSCE’s overall approach to security has been underpinned by a firm conviction that security and stability cannot be sustainable without assurance of human rights and economic and social opportunities.

Naturally, since the beginning of the revolution in Tunisia and the ousting of President Zine al-Abidine Ben Ali on 14 January 2011 after 33 years in power, the OSCE has paid much political attention to the events unfolding in the South Mediterranean. As early as 20 January 2011, at the weekly meeting of the Permanent Council, the Organization’s main regular decision-making body, participating States discussed the developments in Tunisia and started considering ways in which the OSCE could assist its Partner. The situations in Tunisia and Egypt were then raised at subsequent meetings of the Permanent Council. In turn, Mediterranean Partners displayed readiness to share information and updates on relevant developments in their countries within the framework of the Mediterranean Contact Group, a regular meeting at ambassadorial level held between OSCE participating States and Mediterranean Partners and chaired by the incoming OSCE Chairmanship. On several occasions, Tunisia, Egypt, Morocco, Jordan, and Algeria briefed the group on the events taking place in the region. In response, a number of OSCE participating States repeatedly stated their support for the ongoing democratic changes and declared their openness and willingness to put the OSCE’s expertise and experience at the service of the Partners, should the latter choose to request assistance from the OSCE and its executive structures.

This approach has stemmed from the understanding of the historic significance and magnitude of change that is underway in the South Mediterranean. Despite all the differences in the situations and contexts, many observers have actually drawn a parallel between the recent and still ongoing changes in the South Mediterranean and the revolutions in Central and East-

3 Timothy Garton Ash, If this is young Arabs’ 1989, Europe must be ready with a bold response, in: *The Guardian*, 2 February 2011, at: <http://www.guardian.co.uk/commentisfree/2011/feb/02/egypt-young-arabs-1989-europe-bold?INTCMP=SRCH>.

ern Europe in the late 1980s and early 1990s, given the speed of change in both cases and its spontaneous and regional character. In this context, participating States believe that the OSCE has a number of advantages that enable it to play a useful and meaningful role in support of democratic transition in the South Mediterranean.

First, the OSCE has accumulated vast experience and expertise in assisting democratic transitions. For more than 20 years now, supporting democratic transition in its participating States in Central and Eastern Europe, as well as in the South Caucasus and Central Asia, has constituted one of the Organization's core tasks and activities. Since the collapse of communism, the CSCE/OSCE has offered a framework for democratic change across the region by setting standards and agreeing commitments across the three dimensions of security, including on human rights, democracy, and the rule of law. In addition to its norm-setting function, the Organization has also provided practical help to the post-communist countries in implementing the commitments taken and in carrying out domestic reforms.

Democratic transition is a multidimensional task. In this regard, the OSCE's comprehensive approach to security has proved indispensable, aiming to advance the interrelated aspects of the politico-military, economic and environmental, and human dimensions of security, thus promoting lasting and sustainable peace and security. The OSCE's expertise and experience has become widely recognized in such areas as democratic institution-building, freedom of the media, police reform, confidence building, protection of persons belonging to national minorities, legal reforms, good governance, rule of law, and the organization and conduct of free and fair elections, while its election methodology and criteria have been seen as an international "gold standard".

Second, in providing support for democratic transition, the OSCE has developed an extensive toolbox that includes a network of field presences (currently 16), the Vienna-based Secretariat with its specialized units, and three permanent institutions: the Office for Democratic Institutions and Human Rights (ODIHR), the High Commissioner on National Minorities (HCNM) and the Representative on the Freedom of the Media (RFOM). The OSCE participating States in South-eastern and Eastern Europe, the South Caucasus, and Central Asia have all benefited from this toolbox in their transitions. Many instruments at the disposal of the OSCE and its executive structures, such as experts' networks and online resources, compilations of good practices, training modules, handbooks, legislative commentaries, guidelines, and recommendations in all areas covered by the OSCE mandate, are readily available to and can promptly be shared with interested Partners for Co-operation and even adapted and translated to meet their individual needs. An essential element of the OSCE toolbox and approach is its active engagement with civil society, both by partnering to help participating States

with the implementation of OSCE commitments and by providing NGOs with the necessary capacity-building support.

Third, the OSCE's broad and inclusive membership, which brings together the established Western democracies in Europe and North America, Turkey – which has provided an example of balancing Islam with secular democratic values – and Russia, Ukraine, and other states in Eastern Europe, the Balkans, the South Caucasus, and Central Asia, offers a diversity of cultural models and experiences that the Organization's Partners might find interesting and instructive.

Finally, with the Mediterranean Partners being associated with the Helsinki process since its very beginning, the OSCE is not an unknown organization in the South Mediterranean, but one in which the Partners have a say, in which they have increasingly been included in various aspects of political dialogue and practical co-operation, whose working methods they know, and whose principles and commitments they are invited to implement on a voluntary basis.

With this vision and understanding, the 2011 Lithuanian OSCE Chairmanship, supported by the Irish Chair of the Mediterranean Contact Group, was quick to react and actively promote the possibility of sharing the OSCE's experience and expertise with the Mediterranean Partners. On 18 March, the Lithuanian Chairmanship circulated a background paper on the instruments that the OSCE could offer to its Partners for Co-operation, with the aim of informing the Partners and providing food for thought to participating States in devising concrete assistance measures.⁴ The paper highlighted areas of potential OSCE involvement such as electoral assistance, legal reform, freedom of the media, migration management, police reform, confidence- and security-building measures, and national minorities. The document also outlined the political basis, conditions and possible ways for the OSCE to support its Partners, taking into account the Organization's rules of procedure and established practices.

Furthermore, the Chairperson-in-Office (CiO), Lithuanian Foreign Minister Audronius Ažubalis, initiated direct contact with the United Nations Secretary-General and encouraged him to co-ordinate international efforts in the South Mediterranean region. Intense consultations and exchanges of information on planned involvement and activities were conducted at expert level by the Secretariat along with the United Nations (UN), the European Union (EU) and the League of Arab States (LAS) in order to focus possible OSCE action on areas where the Organization could provide added value and to ensure efficient co-ordination with partner organizations to avoid potential overlapping.

The OSCE has adopted a customized approach, taking into account the peculiarities of each Partner country (e.g. the caretaker nature of post-

⁴ *Instruments that the OSCE could offer to its Partners for Co-operation*, Background Paper, CIO.GAL/41/11, 18 March 2011.

revolutionary governments in Egypt and Tunisia), their individual short- and long-term needs and priorities, and the areas where the Organization's contribution could make a real difference. A bilateral dialogue with interested Partners was therefore initiated by the Secretary General and the Chairmanship in order to identify specific requirements and niches where the OSCE could provide a value-added contribution through the implementation of concrete co-operation projects.

- *Tunisia*

As the first country in the region where the popular uprising brought the old regime down, Tunisia was also the first Mediterranean Partner to approach the OSCE. In mid-February, Tunisia submitted a request for information on the OSCE's experience in assisting democratic transition. Then the OSCE CiO visited Tunisia in mid-April at the invitation of the Tunisian Foreign Ministry. His visit was preceded by an advance team of experts from the OSCE Secretariat and ODIHR tasked with gathering information on outstanding needs and on areas where the OSCE could usefully offer its support.

During the meetings with the CiO, Tunisian interlocutors showed great interest in co-operation with the OSCE. Electoral assistance, media freedom, police reform, migration management, and fighting corruption were identified as the most useful areas of potential OSCE assistance. As a follow-up to the visit, the CIO sent a letter to the Tunisian Foreign Minister offering a list of concrete proposals in the areas identified. In mid-July, Tunisia sent an invitation to the OSCE and other international organizations to observe the elections to the National Constituent Assembly that were scheduled to take place on 23 October 2011. Since OSCE/ODIHR election observation is designed to assess compliance with relevant OSCE commitments, and is therefore limited to the territory of its participating States, the Lithuanian Chairmanship of the OSCE replied by restating the OSCE/ODIHR readiness to provide technical assistance to Tunisia and to deploy an Elections Support Team to support the government and other international actors, subject to the approval of the Permanent Council on the basis of an explicit request by Tunisia. At the same time, the OSCE Parliamentary Assembly decided to take part in the observation of the October elections in Tunisia.

- *Morocco*

Since the launch of the reform process announced in the speech to the nation by King Mohammed VI at the beginning of March, Morocco has regularly shared information with participating States on related developments in the country and has demonstrated a keen interest in enhancing its co-operation with the OSCE. Following an official invitation by Morocco, an ODIHR-led delegation containing a representative from

the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA) visited Rabat at the end of May to discuss specific areas and ways of possible OSCE support. Contacts with relevant Moroccan interlocutors were also initiated by the OSCE RFOM on a separate occasion.

Whereas concrete requests have yet to be formulated by the Moroccan authorities, areas of OSCE expertise that appeared to be of great potential interest for Morocco included independence of the judiciary, revision of legal texts, capacity building for national human rights institutions, training of domestic election observers, human rights education, tolerance and non-discrimination, media freedom, combating corruption, and money laundering.

- *Egypt*

A bilateral visit to Cairo at the beginning of June by the Lithuanian Deputy Foreign Minister provided a good opportunity to also discuss issues connected with a potential OSCE contribution to the transition process in Egypt. For this purpose, the Deputy Foreign Minister was accompanied by experts from the OSCE Secretariat and ODIHR and held a series of meetings with Egyptian officials and civil society representatives.

Two areas were identified as immediate priorities for co-operation between the OSCE and Egypt: electoral assistance and capacity building for civil society, including political parties. In the long run, once a new government and relevant capacities are in place after the scheduled national elections, the OSCE's expertise in the areas of police reform, media freedom, and good governance might be of further value.

Intensive engagement with civil society and youth activists was deemed particularly important, given the special role they played during the revolution and the significant contribution that they could bring to the reform process. The OSCE's own experience demonstrates that successful democratic transition requires the full use of the energy inherent in civil society. Following up on the agreements reached during the visit, ODIHR moved quickly to organize a three-day workshop on election observation methodology and human rights in Warsaw for fifteen representatives of Egyptian civil society at the end of July. A second workshop followed three months later, in Budva, Montenegro, for NGOs representatives from Egypt, Morocco, and Tunisia, focusing on good practices in election observation.

At the time of writing, bilateral consultations between the OSCE and interested Partner States were still under way. For the OSCE to translate its political openness and readiness to support democratic transition in the South Mediterranean into concrete and practical action, an explicit request by the Partner concerned must be received; this is because the Partners' relationship

with the OSCE is based on their voluntary adherence to OSCE norms, principles, and commitments. In addition, any potential activity in a Partner country, i.e. beyond the OSCE area, will require agreement by all participating States, which is then formalized in a decision by the Permanent Council.

Experience with democratic transition in the OSCE's own region demonstrates that international assistance can play a helpful, often instrumental role. The OSCE has also learned over the past decades that democratic transition is a complex, sometimes uneven, and long process that requires political will and determination, commitment, and patience. A revolution is only the beginning of transition, and there is a distance between a nation's democratic instinct and its capacity to build democracy. As underlined by the CiO: "It is my sincere hope that these countries [in the South Mediterranean] will emerge from this difficult period as strong and free modern democracies worthy of the many thousands of engaged citizens who took to the streets and risked their lives to demand a better future for themselves and their children."⁵ The OSCE has stated its readiness to be of assistance and offered its advice and expertise to its Mediterranean Partners for Co-operation in a pragmatic and practical way.

Reinvigorating the OSCE Mediterranean Partnership

The OSCE relationship with the Mediterranean Partners for Co-operation dates back to the origins of the CSCE. A number of Mediterranean countries, including Algeria, Egypt, Israel, Morocco, and Tunisia, were associated with the Helsinki process from its very beginnings. Jordan became a Mediterranean Partner in 1998. The Partnership status provides for dedicated venues for regular dialogue between the Partners and the OSCE participating States and for possibilities of practical co-operation.

Over the years, especially with the adoption of the 2007 *Madrid Ministerial Declaration on the OSCE Partners for Co-operation*,⁶ the OSCE Mediterranean Partnership has made steady progress, with a broad and consolidated framework for political dialogue and practical co-operation having been put in place and strengthened. Today, Partners enjoy regular access to the weekly meetings of the OSCE Permanent Council and Forum for Security Co-operation in Vienna, sitting at the main table together with participating States. Partners have been invited to all high-level OSCE gatherings, such as the Astana Summit and Ministerial Council Meetings, including the two informal Ministerial Meetings in 2009 and 2010 and the periodic ambassadorial

5 Audronius Azubalis, Partnerships for sustainable security, in: *New Europe*, 6-12 March 2011, p. 5, available at: <https://www.neurope.eu/blog/partnerships-sustainable-security>.

6 Ministerial Declaration on the OSCE Partners for Co-operation, MC.DOC/1/07, 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. 3-4.

meetings within the frameworks of the Corfu Process and the “V-to-V Dialogue” (“from Vancouver to Vladivostok via Vienna and Vilnius”). They also attend the main annual OSCE events in the three dimensions (the Annual Security Review Conference, ASRC, the Economic and Environmental Forum, EEf, and the Human Dimension Implementation Meeting, HDIM) and all the relevant conferences and seminars of interest to them.

The Contact Group with the Mediterranean Partners for Co-operation, which meets roughly every second month, serves as a main dedicated venue for regular dialogue between the Mediterranean Partners and participating States, supplemented by frequent informal consultations at the level of contact points. Since 1995, the annual OSCE Mediterranean Conference has been convened in the autumn, usually hosted by a Partner State. The OSCE Parliamentary Assembly has successfully developed a vibrant parliamentary dimension of the OSCE Mediterranean Partnership, for example by holding the annual Mediterranean Forum since 2003 and appointing a Special Representative on Mediterranean Affairs.

In 2007, the OSCE Partnership Fund was established, financed through extra-budgetary contributions. The operation of the Fund has made it possible to foster closer relations with Partners by supplementing political dialogue with practical co-operation projects and activities, as well as by supporting the increased participation of Mediterranean representatives in various OSCE events. The OSCE Ministerial Troika meeting with the Mediterranean Partners convened on the occasion of the OSCE Ministerial Council at the end of each year serves to summarize the progress achieved in the course of the year and to provide political guidance for the future.⁷ In addition to relations with the Mediterranean Partners, the OSCE has also built solid links and co-operation with regional organizations in which Mediterranean Partners are members, especially with the LAS.⁸

In terms of substance, the OSCE Partnership essentially serves two main functions. First, reflecting the political nature of the OSCE itself, the Partnership provides a broad platform for regular political dialogue between the participating and Partner States on a broad range of issues of common interest, where Partners bring a Euro-Mediterranean dimension to the OSCE’s security debates. Second, participating States see the Partnership as an instrument to promote OSCE experience and values in the neighbouring

7 For more details on the evolution of the OSCE Mediterranean Partnership see the background paper “Co-operation with the Mediterranean Partners for Co-operation and with the Asian Partners for Co-operation” prepared by the Section for External Co-operation for the 2010 Review Conference, RC.GAL/23/10/Rev.1, 22 October 2010. For a more analytical recent assessment of the development of the OSCE Mediterranean Partnership see Monika Wohlfeld, The OSCE and the Mediterranean: Assessment of a Decade of Efforts to Reinvigorate a Dialogue, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2010*, Baden-Baden 2011, pp. 351-368.

8 See Oleksandr Pavlyuk, Engagement with organizations outside the OSCE area, in: *OSCE Magazine* 2/2010, pp. 9-10.

regions. Although the Partners are not formally bound by OSCE norms, principles, and commitments, participating States have repeatedly invited them to consider voluntarily implementing those and offered their support to this end. Both regular political dialogue and the sharing of the OSCE *acquis* are meant to contribute to the strengthening and expansion of the area of common peace and security.

Despite the fact that much progress has been achieved, however, neither the Partners nor the participating States have seemed to be fully satisfied with the state of the Mediterranean Partnership in recent years. The Partners have often expressed disappointment that the Mediterranean Partnership has not been practical enough to address their interests and needs and has lacked a results-oriented approach and implementation strategy, while the discussions within the frameworks of the Contact Group meetings and the OSCE Mediterranean Conference have been seen as self-serving in the absence of concrete and practical outcomes and a binding decision-making mechanism that could enforce the implementation of any recommendations made.⁹ Faced with the detached attitude of some Partner countries, and realizing the limitations of the Partnership, participating States for their part have been gradually losing interest. The latter point was reflected formally in their low levels of attendance and commitment to the work of the Contact Group meetings.

This situation and the resulting lack of momentum in the Mediterranean Partnership in recent years could be explained by several factors. For one thing, more than 35 years after its launch, the OSCE Mediterranean Partnership remains a predominantly Vienna-based endeavour, mostly of a politico-diplomatic nature, driven by permanent representatives of the OSCE participating States and ambassadors of six Partner countries. The involvement of NGOs, civil society at large, and even officials from state institutions other than the foreign ministries has been limited and ad hoc. Despite the holding of Mediterranean conferences in Partner countries, the Partnership's visibility in all six has been low: High-level political attention has been insufficient and sporadic, while the general public has very little knowledge about the OSCE, its goals and capacities.

Moreover, since 1998, when Jordan joined as the sixth Mediterranean Partner, the group has remained stagnant, with limited outreach to the region. Some participating States have traditionally been cautious when it comes to outreach activities beyond the OSCE area of responsibility. Others were not in a position to join the consensus when Palestine twice formally requested Partnership status with the OSCE. No other indication of interest in becoming an OSCE Partner has been received from the broader Middle East and South

9 See, for example, *Considerations of the delegations of the Mediterranean Partners for Co-operation for the attention of the members of the Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE*, PC.DEL/379/05, 13 May 2005, or *Statement by the Mediterranean Partners for Co-operation – Strengthening the Mediterranean Dimension of the OSCE*, PC.DEL/873/05, 14 September 2005. Further papers on these issues have been individually circulated on various occasions by Egypt and Morocco.

Mediterranean region, nor has the OSCE displayed much pro-activism in publicizing itself and its mission, values, and philosophy. This lack of dynamism characteristic of the Mediterranean Partners' group has contrasted sharply with the OSCE Asian Partnership, whose composition grew from three to six members between 2003 and 2010, bringing fresh perspectives and new issues to the table.

Add to this the persistent problems in relations among the Mediterranean Partners themselves, perpetuated by the unresolved conflicts and enduring tensions in the region. These problems have frequently hampered possibilities for constructive and substantive dialogue and co-operation in Vienna. Most unfortunately, but to nobody's surprise, reaching an agreement on which country would be hosting the next Mediterranean Conference has become the biggest annual issue for the Mediterranean Partnership, with the process sometimes taking months and requiring the investment of a great deal of political effort before the necessary consensus could be secured. While Egypt has hosted such conferences five times, some Partner States have not even held one.

Finally, the nature of the political regimes in some of the Mediterranean Partner countries has been reflected in their selective interest in OSCE norms, principles, and commitments, especially those in the human dimension. This resulted in a sort of "à-la-carte" dialogue and co-operation with the Mediterranean Partners: In recent years, the Partnership has focused mainly on an important, but still narrow, set of issues, such as tolerance and non-discrimination, migration and water management, and combating terrorism, rather than covering the entire spectrum of the OSCE *acquis* in an open-minded and interactive manner. The OSCE Mediterranean dialogue has hardly touched the areas of human rights, democracy, and the rule of law. Against such a background, limited expectations and weakened commitment have become widespread among OSCE participating States.

Under the prevailing political circumstances, the OSCE Mediterranean Partnership has in a way reached a certain artificial limit, while occasional efforts to inject a new breath of life into it, for example by appointing the CiO's Special Representative for the Mediterranean Partners for Co-operation under the 2009 Greek OSCE Chairmanship, have not significantly changed the overall situation and the entrenched atmosphere.

In this context, the democratic transition process launched in Egypt and Tunisia and the ongoing change in other countries in the region have produced the historic moment in the South Mediterranean that might not only open the door to concrete and practical OSCE support to interested Partners, but could also give the long-needed new momentum and dynamism to the OSCE Mediterranean Partnership as a whole. The emergence of democracy in the region will hopefully make the Partners broadly more open to the OSCE *acquis*. After all, the values so enthusiastically and courageously em-

braced by millions of people in the region in recent months are also core values of the OSCE.

It is therefore a unique and very timely opportunity to elaborate on where the OSCE Mediterranean Partnership should go further and to reflect on the next steps to be taken and adjustments to be made.

Should the partnership be more oriented towards the specific needs of the Partners in the future? Can the OSCE become more pro-active in reaching out to broader audiences and sharing its experience and *acquis* with Partner countries, neighbouring regions, and other interested states? Should the participating States show flexibility and empower executive structures to conduct certain activities in the Partner countries, such as seminars and workshops, when requested? Should the OSCE further strengthen its relations with regional organizations in North Africa and the Middle East, and particularly with the LAS, including partnering in joint projects and activities? Will Partners be ready to move actively and in practical ways towards voluntary implementation of OSCE norms, principles, and commitments? How can the OSCE Mediterranean Partnership be expanded beyond foreign ministries and even governments?

The new context calls for new thinking and creative approaches. Within the OSCE, the revived interest in the Mediterranean Partnership is huge. The attendance at meetings of the Mediterranean Contact Group in 2011, the highest in years, is a strong indication of this interest and of the newly-raised expectations on both sides. Within the framework of the 2011 ASRC, the Lithuanian Chairmanship organized a special session to discuss the strengthening of the OSCE's interaction with Partners for Co-operation, with a particular focus on the Mediterranean Partners and Afghanistan. Some participating States went as far as suggesting that the OSCE expertise could be of potential interest to Libya, should it choose to join the OSCE Mediterranean Partnership.

This year's Mediterranean Conference, which was held in October, focused on the challenges and opportunities in the Mediterranean region brought about by the ongoing changes. The event was hosted by Montenegro, the OSCE participating State with the most recent experience of democratic transition. This held special significance because it provided an occasion for presenting first-hand experience of how the OSCE can support democratic transformation by promoting human rights, democracy, good governance, and the rule of law, strengthening freedom of the media, and by addressing issues related to the role of the police and armed forces in democratic societies. The event was also an opportunity for sharing with the South Mediterranean region the merits of the OSCE's comprehensive and co-operative approach to security, for raising the awareness of the OSCE experience and capabilities, and ideally for identifying specific co-operation activities.

The conference paved the way for the Mediterranean Partnership to take a prominent place at the OSCE Ministerial Council Meeting in Vilnius. Four

years after the *Madrid Ministerial Declaration on the OSCE Partners for Co-operation* was adopted, 56 participating States agreed on a decision on Partners for Co-operation,¹⁰ which restates the OSCE's readiness to offer support and to further develop the dialogue and practical co-operation with its Partners. Whether and how this vital momentum is used and sustained is in the hands of both sides.

The Vilnius Ministerial Council Meeting was preceded by a civil society conference for Mediterranean Partners, bringing together NGO and civil society representatives from the Mediterranean region, both from the Partner countries and OSCE participating States. This is a new and innovative development that reflects the critical importance of civil society and consequently the high level of attention paid to engaging more with youth activists and NGOs. In the past, the OSCE made some attempts to reach out to civil society in the South Mediterranean by organizing side events for NGOs on the margins of the Mediterranean Conferences held in Tel Aviv in 2007 and in Amman in 2008. Those initiatives were welcomed and were helpful in building networks, even though these were of limited scope and participation and had no continuity in subsequent years. The civil society conference in Vilnius was attended by several dozen civil-society leaders from both the OSCE region and the South Mediterranean, and resulted in a series of recommendations that were presented to the Chairperson-in-Office, which publicly call for stronger engagement between the OSCE and the Mediterranean Partners and encourage joint efforts in consolidating democracy, including through the enhanced involvement of civil society. This may open a new page of active engagement with NGOs in the Mediterranean region, which hopefully will develop into a long-term partnership and systematic interaction, contributing to strengthening civil society in the South Mediterranean, as well as to raising the knowledge about the OSCE and its security concept and approach.

Conclusion

The South Mediterranean is in the midst of unprecedented change, with history in the making. At this stage, no one can anticipate how the situation might evolve and what turn the transition might take. What is clear is that the ongoing change has ushered in a historic opportunity for the region itself and for its neighbours. It is also clear that the path towards democracy will be a long one. Perseverance, long-term vision and commitment will be needed on the part of the countries involved and those willing to support them.

The OSCE and its participating States have a major stake and interest in the success of democratic transition in the Mediterranean Partner countries.

10 OSCE Ministerial Council, Vilnius 2011, *Decision No. 5/11, Partners for Co-operation*, MC.DEC/5/11, 7 December 2011.

The vision of a free, democratic, common, and indivisible Euro-Atlantic and Eurasian security community stretching from Vancouver to Vladivostok and rooted in agreed principles, shared commitments, and common goals, as outlined by the Astana Summit, will be much more difficult to achieve if the South Mediterranean region remains insecure and unstable or reverts to authoritarianism or radicalism.

The OSCE also has a role to play. This is probably the moment for which the OSCE Mediterranean Partnership was launched more than 35 years ago. The present challenge, for both the OSCE and its Mediterranean Partners is to seize this opportunity, to reinvigorate the spirit of the Mediterranean Partnership, and to translate this spirit into practice and concrete action by providing tangible support to democratic transition in the region and by fulfilling the OSCE Partnership of Co-operation's mission to extend the area of security and co-operation by sharing OSCE values, principles, and commitments.

The Evolution of Japanese Diplomacy towards Central Asia since the Collapse of the Soviet Union

Central Asian states' relations with Japan have always had a great deal of potential. Even during the era of the Soviet Union, a majority of the population in Central Asian republics had highly positive views of Japan, rooted in factors such as their sympathy towards Japan as the first victim of nuclear bombs, respect for its modernization and technological innovations, and interest in its indigenous culture. After the Second World War, moreover, a number of Japanese prisoners of war (POWs) were brought to several republics in the region such as Uzbekistan and Kazakhstan and were involved in the process of reconstructing those republics. The quality of the POWs' work on the construction sites left a very good impression on the populations of those republics. When the Central Asian republics achieved independence, expectations of further development for these relationships were high on the part of Central Asian governments and Japan alike. What are the key features of relations between Japan and Central Asia? What were Japan's strategies for approaching this complicated region? How did these policies evolve over the time, and what were the changes in the course of their implementation? These questions will be raised in this contribution.

This contribution begins by outlining general problems in the conceptualization of Central Asia in Japan's foreign policy. Secondly, it details the evolution of Japan's foreign policy and the initiatives the country has undertaken over the years in respect of Central Asia. And thirdly, it provides insights into security-related, political, and economic aspects of co-operation between Central Asian states and Japan and the factors which characterize these relations.

Placing Central Asia within Japanese Foreign Policy as a Whole

The interest shown towards Central Asia by the public in Japan has historically been fuelled by a range of other factors, among which the notion of the Silk Road has played a prominent part. In the years prior to and immediately after the collapse of the Soviet Union, people with a practical interest in the region, scholars, and the general public in Japan shared an interest in the notion of the ancient Silk Road and the historical sites and cultures that still exist today. Central Asia used to comprise one section of the Silk Road, symbolized by cities such as Samarkand, Bukhara, and Khiva, which flourished because of the traffic in goods and people. Even before the collapse of the Soviet Union, Japanese archaeologists and historians displayed an interest in

the history of this area, and they have produced excellent studies on the subject. After the demise of the USSR, such studies by the Japanese academic community became much easier to conduct because many restricted sources of information became more open and access to sites was more readily available than before. Such public interest was generally also reflected in the Japanese foreign-policy emphasis on the historical connections between Japan and Central Asia through the Silk Road, which expressed the desire to revitalize these links through constructive co-operation.

In the area of politics, however, the collapse of the Soviet Union and the eventual independence of the Central Asian republics was an unexpected event for Japan that left its policy-makers puzzled as to how to approach these countries. The available options at that time included treating them in line with Japanese policy towards a larger Eurasia that included all other post-Soviet states, approaching them individually, or formulating regional policy towards Central Asia on the assumption that it was a region of its own. At the initial stage of relations between Japan and the independent states of Central Asia, the first two approaches were naturally favoured, with Japan establishing diplomatic missions in several of those countries as well as approaching them in line with overall Japanese policy towards the newly-independent post-Soviet states. Due to the historical connections between the Central Asian states and Russia, and to their general policy of co-ordinating their foreign policies in the years following their independence, they were considered to be Russian satellite states – and Japanese policy developed accordingly. At the same time, little information on those countries' foreign and domestic policy priorities and preferences was available, a fact which led Japan to focus on collecting information during the first few years of those countries' independence.

In addition to the lack of information on Central Asia, the conceptualization of partnerships with countries in the region was a rather complicated issue for Japan for two reasons. Firstly, Japanese foreign policy does a poor job of defining "Asia" and its boundaries and, in many cases, limits Japan's Asian foreign policy outreach to the ASEAN countries. While Japan has always generally emphasized the role and importance of "Asia" in its economic and political policies, it has defined this connection poorly in practical terms. The same problem arose in its policy towards Central Asia.¹ As Japan does not share borders with any Central Asian countries and is relatively far away from them, it was difficult to conceptualize the importance of this region for Japan in practical terms. Discourse on the subject was mostly limited to cumbersome notions of promoting development and "open regional co-operation"

1 For instance, in 2002, the Japanese Prime Minister's office called for a clearer formulation of Japanese foreign policy priorities, defining Central Asia policy together with Middle East policy, and emphasizing energy projects as its main priority. For details, see the Task Force on Foreign Relations for the Prime Minister, *Basic Strategies for Japan's Foreign Policy in the 21st Century. New Era, New Vision, New Diplomacy*, 28 November 2002, at: http://www.kantei.go.jp/foreign/policy/2002/1128tf_e.html.

across Asia, of which Central Asia was a part. While the Japanese policy-makers' initial interest was based on the assumptions that the (then) second-ranking global economic power Japan should be present in Central Asia and that Japan should take an active part in helping those post-Soviet states to rebuild, thus making them friendly and co-operative with Japan in its foreign-policy objectives, the late 1990s and early 2000s demonstrated that Japan could not yet define the merits and goals of its engagement in Central Asia in clearly defined terms.²

In the years since then, the Japanese government and its various institutions have contributed greatly to much-needed developmental projects in Central Asia and cemented Japan's image as a reliable and highly constructive partner for the Central Asian states. It has also provided much-needed expertise at both bilateral and multilateral levels in environmental relief, in studies on how to improve agricultural production cycles, on the problem of the Aral Sea, on water issues, and in the construction of legal frameworks by providing support for studies of specific legal systems. Financial disbursements and grants also helped these states to sustain themselves in the early years of their independence, serving as a pillar of support for their emerging agricultural, industrial, and financial systems. Yet it was unclear what Japan was gaining in real terms by pursuing such an aggressive grant-disbursing policy in this region and whether it really had a cohesive Central Asia policy. While the Central Asian states' engagement and strategic partnerships with Japan can be accounted for by the desire of these newly independent states to achieve stability and prosperity, this goal (even considered together with the motivation arising from Japan's responsibility as the second largest economy in the world) can hardly explain why Japan was so active as a financial contributor – a provider of loans and grants – in this part of the world.

It is true that active engagement on the part of Japanese diplomacy in Central Asia won it many hearts and minds among Central Asian politicians and the public at large. The majority of Central Asian states can be regarded as friendly to Japan and supportive of its economic and political interests in the international arena. It can therefore be argued that Japanese policy contributed to the build-up of Japan's soft power in the region. It also led to benefits from energy deals and contracts between the Central Asian governments and their Japanese counterparts. Yet there is a sense among policy-makers on both sides that there is much untapped potential in relations between Japan and Central Asia. In addition, many Central Asian researchers and government officials often find themselves puzzled by the question of

2 This problem has been raised frequently over a number of years, but it remains one of the main issues on the way to improving the effectiveness of the Japanese engagement in Central Asia. For instance, see Tomohiko Uyama, Japanese Policies in Relation to Kazakhstan: Is There a "Strategy"? in: Robert Legvold (ed.), *Thinking Strategically*, Cambridge, MA, 2003, pp. 165-186. For a call to reform Japanese foreign policy, see Kitaoka Shin'ichi, Reform in Japanese Foreign Affairs: Policy Review Long Overdue, in: *Gaiko Forum* 3/2002, pp. 3-12.

whether Japan has any coherent and well-planned long-term strategy towards this region or whether diplomatic initiatives are aimed mainly at short-term political objectives, defined by each prime minister rather than constituting a long-term diplomatic policy implemented by successive administrations. Concerns about the inconsistency or poor definition of Japanese involvement in Central Asia were fuelled by several diplomatic initiatives launched by a number of Japanese prime ministers, which seemingly built on the previous initiatives but conceptualized Central Asia and its importance for Japan in very different terms. The evolution of Japanese foreign policy concepts from Eurasian to Silk Road diplomacy, and beyond that to the notion of the Central Asia plus Japan initiative and the concept of crafting an arc of freedom and prosperity across Eurasia is a clear example of how the Japanese have searched for the right way to approach the Central Asian region effectively.

The Evolution of Japanese Foreign Policy in Central Asia

Initial Contacts and Hashimoto's Eurasian/Silk Road Diplomacy

Japan kicked off its initial engagement in the region by setting up several missions consisting of high-ranking officials in the region and then by re-discovering the potential for Japanese engagement. It would not be an exaggeration to say that Central Asia was unknown terrain for Japanese foreign policy and that these missions were designed to determine what Japan could both contribute to and expect from these countries. Prime Minister Ryutaro Hashimoto announced the first initiative to engage in Central Asia in 1996 by placing Central Asia within the broader Eurasian post-Soviet context. This largely reflected the assessment of Central Asia during the early years of those states' independence as a part of Russian-dominated post-Soviet space. Japan's goals in engaging with the Central Asian region included to ensure that Japanese economic and geopolitical interests were properly represented in this region and to contribute to stability, peace, and development.³ As many argue, such policy accommodates and is consistent with the centuries-old Japanese strategy of defining "technological and economic priorities" as central to its security and foreign policy objectives.⁴ Central Asia was to be a resource supply link in the list of these priorities.

Hashimoto's initiative has largely developed into the Silk Road Action Plan, which was drafted jointly by the Ministry of Trade and Industry, the Ministry of Foreign Affairs, and the Ministry of Finance of Japan, and published in 1998. It defined three main pillars of engagement in Central Asia,

3 For details of both approaches see Masahiro Kawai/Shinji Takagi, Japan's Official Development Assistance: Recent Issues and Future Directions, in: *Journal of International Development*, 16/2004, pp. 255-280.

4 Eric Heginbotham/Richard J. Samuels, *Mercantile and Realism and Japanese Foreign Policy*, Cambridge, MA; 1996, pp. 2-3.

namely strengthening political dialogue, providing assistance with economic and natural resource development, and co-operation in facilitating democratization and stabilization in this region. In real terms, this implied the maintenance of bilateral ties with Central Asian countries but, more importantly, dealing with Central Asia in a broader Eurasian context. In following up his concept, Prime Minister Hashimoto attempted to encourage Japanese businesses to participate more actively in the oil and gas resource-rich economies of Central Asia. This call remained largely ignored, however, and penetration by Japanese business turned out to be a very slow mission to accomplish for various reasons, which include, but are not limited to, the lack of information about the region, the lack of a legal infrastructure guaranteeing investment safety, the over-cautious attitude of Japanese businesses under the influence of the issues mentioned above, and the rather cautious and slow Japanese corporate mentality and practice.

The Japanese presence in Central Asia has been supported through two main channels. One is Official Development Assistance (ODA) for the region which has manifested itself in grants, technical co-operation, low-interest and interest-free loans, and other forms of financial assistance, which accounted for more than 2.5 billion US dollars over the years. The declared goals of Japan's ODA disbursements were to establish a foundation for sustainable economic development, to support democratization, to effect the transition to a market economy, and to help countries in the region to deal with their social problems. While ODA disbursements have symbolized serious Japanese commitment to this region and have funded much-needed assistance programmes, their efficiency and their connection with the declared goals and with Japanese national interests have frequently been criticized both at home and abroad. The second channel was meant to be active participation by Japanese businesses in advancing Japanese economic interests in the region. In this regard, the Japanese government aimed to contribute to the development of energy-related projects in these oil-, gas-, and uranium-rich countries and to secure a proportion of these energy resources for exporting to Japan.

From Eurasian/Silk Road Diplomacy to the Central Asia plus Japan Initiative

This policy of engagement was continued by Prime Minister Keizo Obuchi, who had previously played a part in the formulation of Hashimoto's policy towards Central Asia with the Obuchi mission and by adhering to the Eurasian and Silk Road diplomacy.⁵ Due to their brief periods in power, Prime Ministers Obuchi and Yoshiro Mori both adhered to the previous policies of establishing diplomatic missions, strengthening ties with states in the region

5 For details of the mission, see *Roshia Chuo-Ajia Taiwa Misshon Hokoku: Yurashia Gaiko-eno Josho* [A Report of the Mission for Dialogue with Russia and Central Asia: Prelude to Eurasian Diplomacy], Tokyo 1998.

and promoting Japanese business entry into those countries. Yet the outcomes and the degree of success achieved by these administrations in promoting interests in Central Asia remain unclear. On the contrary, during this period of time, the deficiency in Japanese governments' information-gathering and crisis-management capacity in and with regard to Central Asia became obvious when, in 1999, several Japanese geologists were taken hostage in Kyrgyzstan; this put Japan in a very difficult situation with very few options.

Qualitatively different was an approach by Prime Minister Junichiro Koizumi, which, in line with a number of internal policy reforms, also attempted to change certain patterns in Japan's international involvement, including its role in the Central Asian region.⁶ This happened largely against the background of intensified Chinese policy towards the region pursued through the Shanghai Cooperation Organization (SCO), Chinese efforts to dominate energy export-related projects in the region, and the growing Russian influence in the region through the establishment of the Eurasian Economic Community.⁷ Under Koizumi's administration, Japan's policy of engagement with Central Asia manifested itself in the "Central Asia plus Japan Dialogue" initiative announced by Foreign Minister Yoriko Kawaguchi in 2004, the distinctive feature and competitive advantage of which was the encouragement of Central Asian regional integration and enhancement of the capacities of those countries to deal with regional problems by regional means.⁸ There were a few problems of inner-regional politics that Japanese diplomacy had to be aware of and deal with appropriately during the launch of this initiative. Japan aimed to develop its relations with CA in a balanced manner in order to emphasize its commitment to all CA countries and to the notion of open regionalism. Even when announcing the initiative, Japanese diplomacy had to take the rivalry between Uzbekistan and Kazakhstan for regional dominance into account. In doing so, the Japanese Foreign Minister first had to announce the Central Asia plus Japan initiative's launch in Tashkent and then to hold its first meeting in Astana in order to accommodate the regional leadership ambitions of both the aforementioned countries. Another problem was the hesitation on the part of Turkmenistan under the leadership of President Saparmurat Niyazov to take part in this forum even as an ob-

6 For an interesting account of Japanese diplomacy in Central Asia, see Takeshi Yuasa, Japan's Multilateral Approach toward Central Asia, in: Akihiro Iwashita (ed.), *Eager Eyes Fixed on Eurasia: Russia and Its Neighbors in Crisis*, Sapporo 2007, available at: www.src-h.slav.hokudai.ac.jp/coe21/publish/no16_1_ses/04_yuasa.pdf.

7 For some comparisons between Japanese and Chinese foreign policies, see Timur Dadabaev, Models of Cooperation in Central Asia and Japan's Central Asian Engagements: Factors, Determinants and Trends, in: Christopher Len/Uyama Tomohiko/Hirose Tetsuya (eds), *Japan's Silk Road Diplomacy: Paving the Road Ahead*, Washington 2008, pp. 121-140.

8 For details of Foreign Minister Kawaguchi's initiative and Prime Minister Koizumi's visit to Central Asia, see Timur Dadabaev, Japan's Central Asian Diplomacy and Its Implications, in: *Central Asia-Caucasus Analyst*, 17/2006, pp. 3-6.

server because of Turkmenistan's self-proclaimed neutrality and non-alignment in international affairs.

Under the administration of Prime Minister Koizumi, Japan's foreign policy towards Central Asia also culminated in Koizumi's first visit to the Central Asian republics of Kazakhstan and Uzbekistan in August 2006 as part of Japan's efforts to shape its foreign policy towards this resource-rich and strategically important region.⁹ This visit became a continuation of the abrupt efforts by Japanese policy-makers to find the most suitable and effective track for Japanese diplomacy in Central Asia.

While in Kazakhstan, Prime Minister Koizumi conducted negotiations with President Nursultan Nazarbaev, who described the visit by the Japanese Prime Minister as historic. During Koizumi's stay in Kazakhstan, memorandums were signed on co-operation in the peaceful exploitation of nuclear energy and on uranium mine development. This not only symbolizes Japan's desire to secure a stable supply of energy resources, but also reflects the desire of the privately-owned Japanese corporations to have governmental commitments on both the Japanese and Central Asian sides for securing access to energy resources. These memorandums were followed by the signing of the long-awaited agreement on joint exploitation and processing of uranium and other mineral resources and their possible export to Japan in 2010.¹⁰

The second leg of the Prime Minister's visit to Central Asia consisted of his visit to Uzbekistan. Even before this visit, the Uzbek President spoke very highly of the potential for Japanese involvement in Uzbekistan and Central Asia in an interview with the Kyodo News agency. He suggested that Uzbekistan regarded Japan as a long-term partner with an important role in the dynamic development of political, economic, and cultural co-operation between the two states. In turn, President Islam Karimov expressed Uzbekistan's continuous and consistent support for the Japanese bid for permanent membership of the UN Security Council and shared Japanese concerns about the situation on the Korean peninsula.

In Uzbekistan, in addition to energy-related talks and the commitment of both sides to launch a framework for working-level talks on various issues, Prime Minister Koizumi emphasized two main themes: The first was Japanese aid for education projects involving an increase in the number of students from Uzbekistan attending Japanese educational institutions, while the second was connected with political reform and improving the human rights situation in Uzbekistan. The first theme is seen as an attempt to enforce the plans made when the Central Asia plus Japan forum was announced in 2004,

9 For an original periodization of the Japanese initiatives in Central Asia, see Christopher Len, Japan's Central Asian Diplomacy: Motivations, Implications and Prospects for the Region, in: *The China and Eurasia Forum Quarterly* 3/2008, pp.127-149.

10 In the aftermath of the earthquake of 11 March 2011 in Japan and subsequent damage to a nuclear plant, there are increasing calls in Japan for the country to move away from uranium and towards renewable sources of energy; this might affect Japan's priorities in Central Asia.

which envisaged the provision of education to 1,000 students and professionals from Central Asia in Japanese educational institutions. This step is also connected with the overall task of encouraging democratization, human development, and various reforms in Uzbekistan by providing education and involving the younger generations of policy-makers.

Another significant point concerning the Japanese leader's visit to Uzbekistan is that he was the first head of state from the industrialized world to visit Uzbekistan after the Andijan riots of 2005, one year previously, in the course of which the USA and other Western countries strongly criticized the Uzbek government for excessive use of force in dealing with the riots.

Interestingly as has been mentioned above, Prime Minister Koizumi's visit also took place at a time when Chinese and Russian policies in this region were being intensified. Therefore, attempts by Japan to assert a more active style of Central Asia diplomacy, accompanied by rhetoric about strengthening the capacities of the region's states for dealing with their own problems, were seen by many as part of Japanese efforts to hinder Russian and Chinese attempts to subvert the Central Asian countries. Japan attempted, however, to use its Central Asia diplomacy to send a message to its Chinese and Russian neighbours that its policy towards the Central Asian region was motivated not by a competitive drive (for natural resources or geopolitical influence) but rather by Japan's desire to put its relations with the region's countries on a mutually beneficial footing. While Japanese intentions of this kind are well-understood and welcomed by countries in the region, it remains to be seen whether China and Russia share the same perceptions.

Crafting "The Arc of Freedom and Prosperity" and Beyond

This kind of pro-active Japanese foreign policy initiative was further supported by Kawaguchi's successor, Foreign Minister Taro Aso, who, in a speech given in 2006, stressed a holistic regional approach to Central Asia, support for regionalism, and the promotion of democracy and a market economy in the region.¹¹ In addition to his policy speech entitled "The Arc of Freedom and Prosperity: Japan's Expanding Diplomatic Horizons" which he made in 2006, Aso conceptualized this new policy engagement in 2007 further by emphasizing universal values such as freedom, democracy, the rule of law, fundamental human rights, and the market economy. Aso's idea was for Japan to play an instrumental role in constructing an "Arc of Freedom and Prosperity" stretching from northern Europe to the Middle East, Central Asia, and on to southeast Asia. The reason given by Aso for such an approach was that these values of freedom, democracy, and liberal economics had been what helped Japan to develop. This meant that they offered the right pointers for other emerging countries in their development. Japan defined its role as

11 See Taro Aso, Central Asia as a corridor of peace and stability, in: *Asia-Europe Journal* 4/2006, pp. 491-497.

assisting these countries by offering both its experience and its economic assistance along this path. In a major departure from other Western approaches to building human rights, democracy, and liberal market economics, however, Japan emphasized that it would pursue this goal by striving to maintain a balance between political stability and economic prosperity in a manner suited to each country's specificity of culture, history, and level of development. In this way, Japan distinguished its policy from those of the USA and other Western countries and emphasized that pursuit of human rights and democratic values is a goal, but not a condition, of its economic assistance and engagement policies.

The areas of co-operation specifically defined by this policy outline were trade and investment; helping to satisfy human needs such as healthcare and education; infrastructural development; and the legal framework for reforms.

In all of its policies in the areas mentioned above, Japan attempted to fit its Central Asia policy into its overall foreign policy. The aspects dealing with the promotion of democracy, good governance, and human rights, for example, were shared by its strategic allies such as the USA, Australia, EU countries, and members of the North Atlantic Treaty Organization (NATO). The emphasis on the individuality of each country's path of development mirrored the results of policy consultations in various formats, such as the summits and meetings held between Cambodia, Laos, Vietnam, and Japan (CLV-Japan), the Visegrad Four dialogues held by four Central European nations (the Czech Republic, Hungary, Poland, and Slovakia), and others, of which Central Asia plus Japan is an additional scheme.

While Prime Minister Aso's ideas built upon the foundation prepared by his predecessors, Aso's short period in office and chronic political and economic crises in Japan led to a situation in which any diplomatic initiative aimed at the Central Asian region was short-lived or did not develop into a coherent and consistent long-term plan of action. On the whole, such initiatives served merely to symbolize Japan's declared commitment to this Japan-friendly and resource-rich region, while the Japanese engagement relied mainly on the disbursement of loans and grants and strictly limited Japanese participation in business.

The starting point for the development of the political co-operation between Japan and Central Asian states is their shared understanding of the importance of establishing a number of diplomatic tracks aimed at increasing mutual understanding and political trust through the intensification of contacts.

The most important element of the interactions between Japan and its partners in the region is conducted through the exchanges of visits by Japanese prime ministers, and foreign ministers to Central Asia and by Central Asian presidents, prime ministers, and foreign ministers to Japan. These are held regularly and are highly successful. In these meetings, the understanding shown by Japan towards the developmental goals of Central Asian countries and Central Asia's support for Japanese foreign policy objectives have been affirmed again and again and have cemented the partnership between the two sides. However, the intensity of these visits is not equal. While only one serving Japanese prime minister visited Central Asia in 2006, visits by Central Asian leaders to Japan are more frequent. Yet, the unequal intensity of visits by the most senior figures is compensated for by other mechanisms. For instance, the Central Asia plus Japan initiative facilitates influential meetings of senior officials at ministerial level, which, in turn, further facilitate smoother relations in particular fields of co-operation.

The various facets of co-operation between Japan and its Central Asian partners can be divided into three main areas. These are security, economic co-operation, and cultural co-operation, which are of paramount importance for Central Asian states and have some significance for Japan.

Security and Co-operation

The security co-operation agenda between Central Asian states and Japan was set by the development of the post-Soviet situation in the region. Due to its distance from the region, Japan does not share any immediate common security concerns with Central Asian countries. The goal of co-operation between Japan and its Central Asian partners is justified more along the lines of a general Japanese contribution to maintaining international peace, stability, and order.¹² It is broadly defined as helping to prevent Central Asian countries from becoming a weak link in the international chain (by contributing to the fight against terrorism and extremism and helping the countries of the region to catch up in terms of integration into the globalizing system of democratic governance and economic convergence, for instance). Japan's support for and participation in Central Asian security initiatives is also more connected with the notion of indivisibility of national, regional, and global

12 For details, see Christopher W. Hughes, *Japan's Security Policy and the War on Terror: Steady Incrementalism or Radical Leap?* CSGR Working Paper No. 104/02, University of Warwick, August 2002.

security challenges than it is with any immediate threats to Japanese national security. Japan also emphasizes the fight against terrorism as a security priority in its dealings with Central Asia, linking terrorism to religious fundamentalism. This is due partly to the fact that Japan was drawn into dealing with the security crisis in the Central Asian region when the Islamic Movement of Uzbekistan (IMU), an extremist militant group based in Afghanistan which aims to overthrow secular governments in Central Asia and primarily in Uzbekistan, captured several Japanese geologists working in the mountainous areas of Kyrgyzstan and held them as hostages in 1999. Japan was actively involved in the process of negotiating for their release and reportedly paid a ransom – a claim the Japanese government denies. This case has proven the weaknesses of the security situation in Central Asia and the deficiencies of Japanese emergency measures for dealing with threats to Japanese interests in this region. Similar situations arose when Japanese engineers, volunteers, and humanitarian workers were taken hostage in Afghanistan, and Japan was forced to negotiate with their hostage-takers without any efficient regional security or information-gathering mechanism in place to deal with these kinds of situations. Therefore, in addition to the international developments, these events also increased the motivation for Japan to prioritize participation in anti-terrorist campaigns in Afghanistan and to combat terrorism in the Central Asian region. Japan channels its security-related assistance through its commitment to pacifying the situation in Afghanistan and its contribution to the US campaign there. While Japanese engagement in the field of security in post-Soviet Central Asia is mainly in the areas of equipment supply, financial support, and short-term training, its involvement in Afghanistan has also contributed the very limited but highly necessary deployment of military and civilian personnel.

In post-Soviet Central Asia – which normally excludes Afghanistan – however, one can argue that the peculiarity of the co-operation schemes in the field of fighting terrorism lies in the fact that they are often examples of “co-operation” in which Japan is at the giving end while Central Asian states are largely “recipients” of financial and technical assistance. In many cases, these kinds of security commitments are centred upon the concept of short-term security goals achieved by military or policing means. The long-term goals of eradicating the socio-economic root causes of security threats (e.g. reducing poverty and improving the employment situation) are dealt with mainly through the economic facets of co-operation between Japan and Central Asian states and are normally not closely linked to the notion of security-related co-operation.

From the very first years following the collapse of the Soviet Union, Japan indicated a long-term commitment to assisting these newly independent states in their economic development and in the restructuring of their economies. A great deal of the Japanese economic activity in the region consists of humanitarian relief projects, which are based partly on grant allocation and partly on economic opportunity-generating principles. There are several areas in which various Japanese institutions and agencies are engaged in Central Asia. These include much-needed projects for equipping local educational institutions technically, providing educational grants, and giving technical assistance to agricultural producers, to name just a few. The achievements of the Japanese engagement in Central Asia are striking and undeniable in terms of their necessity, the associated economic figures, and the number of projects implemented.¹³ In terms of Japanese business interests, the areas of mineral resource development and exploration remain very high on the agenda. These areas of oil, gas, and uranium exploration and exports to Japan were stressed again and again during the visits of Japanese prime ministers to Central Asia and those of Central Asian presidents to Japan. Japan has also provided huge sums of money to support the infrastructural development of Central Asia. Projects range from infrastructure development in goods and services transportation to tourism-related initiatives.¹⁴

In the case of Kyrgyzstan, Japan has implemented a range of projects aimed at lifting the population's level of well-being by means of community development and support programmes in the most impoverished parts of the country. The primary purpose of these programmes was to empower local communities and enhance their profit-generating capacity in areas that were historically rooted in those communities. Such programmes were based on a scheme that had been introduced in Japan itself, namely the "one village – one product" model. The main purpose of these activities is to identify the capacities of each participating community and an appropriate product that has potentially high market demand. This process is normally advanced through co-operation and co-funding schemes between the Japanese International Cooperation Agency and local authorities. As a rule, the Japanese provide short-term training, expertise in distribution techniques, and some financial assistance to facilitate production of the product in each community that has the best chance to generate profit and jobs. Since the country became

13 For an interesting analysis and outline of the achievements of Japanese policy in Central Asia, see an article by the Deputy Director-General of the European Affairs Bureau, Japanese Ministry of Foreign Affairs, Takeshi Yagi, "Central Asia plus Japan" dialogue and Japan's policy toward Central Asia, in: *Asia Europe Journal* 5/2007, pp.13-16.

14 Japan assisted largely in the areas of modernizing infrastructure such as airports and related facilities. The functioning of some of these transportation facilities remains inefficient and largely underused. See Tengiz Ibragimov, Samarkand – mehta o turisticheskome rae [Samarkand – a dream of a tourist heaven], in: *Nemetskaya Volna*, 27 March 2008, at: <http://www.centrasia.ru/newsA.php4?st=1206613200>.

independent, the number of Kyrgyz communities involved in grass-roots assistance programmes has reached several dozen. Examples of such projects include the facilitation of rare herb collection and marketing, honey production and distribution, local craft workshop development, and many others. The best-known schemes are those in the Issyk Kul oblast of Kyrgyzstan. While the efficiency and impact of such schemes have yet to be evaluated, the central idea of strengthening local capacity for dealing with economic problems and generating jobs and profits at local level is a very important task that is faced not only by Kyrgyzstan but by all Central Asian countries.

In all of these economic and humanitarian projects, Japanese Official Development Assistance (ODA) plays an instrumental role.¹⁵ The Japanese government defines the primary purposes of ODA disbursement as providing humanitarian assistance, increasing the interdependence of economic spheres, and promoting environmental conservation. The main principles guiding ODA disbursements were not using ODA for military purposes or for promoting conflicts; supporting environmentally sustainable development models; using ODA to strengthen peace and stability around the world and to control and prevent the development of weapons of mass destruction; and supporting and promoting democratization, the transition to a market economy, and respect for human rights in the recipient countries. Taking these principles into account, ODA is being disbursed in four main ways: grants and technical assistance projects (mainly on a bilateral basis aimed at meeting basic needs such as health and medical care, sanitation, agriculture, etc.), governmental loans (yen loans provided to the governments at low or no interest and with relatively long repayment periods), assistance by way of contributions to projects run by international organizations, and financial resources for human development (educational grants, etc.).¹⁶

However, there are several lessons that can be learned from the previous Japanese involvement in this region. Firstly, one can conclude from previous Japanese economic and humanitarian engagement that inadequate identification of fields of co-operation will mean that Japanese involvement is ineffective, despite the scale of the financial resources that might be pumped into such projects. In addition, Japanese engagement seems to make a larger and more significant impact in the region when it aims to help with real local capacity-building, as opposed to just emergency or short-term humanitarian assistance schemes. Capacity-building (in the forms that generate profit for individuals as well as governments), which empowers the local population to generate wealth and therefore their capacity to develop their societies, is

15 For details of the Japanese ODA and its evolution, see Marie Söderberg, *Changes in Japanese Foreign Aid Policy*, Stockholm School of Economics, Working Paper 157, October 2002. Also see, Fumitaka Furuoka, *A History of Japan's Foreign Aid Policy: From Physical Capital to Human Capital*, MPRA Paper No. 5654, November 2007, at <http://mpa.ub.uni-muenchen.de/5654/>.

16 On the debates regarding the Japanese ODA, see Saori N. Katada, Japan's Two-Track Aid Approach: The Forces behind Competing Triads, in: *Asian Survey* 2/2002, pp. 320-342, and Kawaii/Takagi, cited above (Note 3).

more efficient because it implies some kind of sustainability after the Japanese assistance comes to an end, while humanitarian assistance projects of the type provided (technical, medical, etc.) tend to duplicate those that are already being implemented by international or national organizations.¹⁷

There seems to be an understanding within the Japan International Cooperation Agency (JICA) and other assistance-related agencies of the Japanese government that projects that ideally result in establishing production or service cycles that can later be continued self-sufficiently by local actors should be given priority.¹⁸ Furthermore, the projects currently being developed in the region demonstrate that, given the scarcity of resources that Japan can provide to the countries in the region, there is an understanding in both Japan and Central Asian countries that in addition to the government-supported projects, there is a need to support initiatives which can hardly be sustained by local authorities and non-governmental institutions alone.¹⁹

Mutual Understanding, Cultural Co-operation and the Japanese Soft-power Construction

The promotion of mutual cultural contacts and interaction at the level of the general public was regarded as a step towards facilitating smoother political, economic, and social co-operation between Japan and its Central Asian partners. One tool for such mutual understanding was the establishment of cultural centres with regular events in Japan and CA for the reciprocal introduction of these societies' cultures. Parallel to certain Japanese educational institutions focusing their studies on Central Asia, the Japanese government set up Japan Centers for Human Development and supported Japanese studies

17 Author's field research findings during the "Survey on Agricultural and Rural Development based on Population Issues" undertaken in 2003 with the Asian Population and Development Association (APDA). Some of the results of the survey are available in printed form in Japanese and English (without the interviews cited in this article). For the English language version, see *Survey on Agricultural and Rural Development based on Population Issues: The Republic of Uzbekistan*, Tokyo, March 2003, and *Survey on Agricultural and Rural Development based on Population Issues: The Republic of Kazakhstan*, Tokyo, March 2002.

18 In an interview with a Japanese Embassy staff official in one Central Asian country, the author was informed that the current policy of the Japanese government in providing technical assistance was to grant contracts on a competitive basis. Local contractors are given the same privileges as Japanese ones. It was also emphasized to the author that local contractors are even preferred in certain situations because this makes the tasks of providing technical assistance easier and more sustainable in the long term. The only concern in connection with this is that in many cases, local contractors are not yet totally familiar with the documentation procedures and proper formalities for participating in tenders for contracts and are not always able to provide the necessary equipment. This puts foreign-based and Japanese companies in a better position, resulting in the situation referred to in this chapter. Author's personal communication, Embassy of Japan, March 2008.

19 One project of this kind involves supporting and training the members of the Water User Associations in Uzbekistan. Source: JICA materials on *Mizu Kanri Kaizen Projekto* [Improvement of the Water Management Project], obtained directly from Japan International Cooperation Agency. This project is still in its active phase.

departments across Central Asia, which were given the task of introducing Japanese culture and preparing the future Japan-friendly generations of policy-makers and active practitioners in this region.

A typical example of these centres that were established in many Central Asian states is the one set up in Tashkent in August 2001. The main activities of these centres include language instruction, the introduction of Japanese culture, and vocational training. The vocational training centres' activities mainly revolve around the concept of introducing courses on business management and the promotion of small- and medium-scale entrepreneurial activity. Admission to these courses is granted on a competitive basis, and the number of applications is three times higher than the number of those admitted. It is quite a significant number, especially in view of the fact that those admitted to these courses have to pay rather high tuition fees of around 800-1,000 US dollars for the five-month course. In Tashkent alone, these courses produce 140 graduates per year, and 800 people have graduated so far.²⁰ The success of such centres in the first decade of their existence was very significant, with the numbers of Central Asian students becoming fluent in Japanese, working for Japanese businesses, and attending Japanese universities growing to a level far beyond that which had prevailed in the period prior to the establishment of these centres. After the centre in Tashkent was established, its average number of visitors per month increased from 2,331 in 2001 to 5,933 in 2011. The average number of visitors per year peaked in 2007 at 74,045. This figure fell slightly to 62,395 in 2010 but still remains relatively high.²¹

In addition, the number of people in Central Asian societies who believe that Japan is contributing to the development of their countries has grown to the extent that Japan is considered to be one of the front-runners in this respect. In the survey conducted by Tokyo University's AsiaBarometer project in five Central Asian countries, Japan was placed second by the general public in Kazakhstan and Uzbekistan in terms of which countries contributed to their respective national development, behind only Russia, while in Kyrgyzstan and Turkmenistan it was among the top four countries; the others were Russia, China, and South Korea.²² This again demonstrates that the commitment of Japan and its efforts to promote mutual understanding with the populations of these countries has had a positive impact, thus contributing to the build-up of Japanese "soft power" in those societies.

However, there are certain challenges that Japan faces in promoting its culture and language in the Central Asian region. These concern, firstly, the

20 Figures are based on the information provided during the author's interview with a high-ranking official of the Japan Center for Human Development in Tashkent on 26 May 2011.

21 Figures are based on the information provided during the author's interview with a high-ranking official of the Japan Center for Human Development in Tashkent on 26 May 2011.

22 For the details, see Takashi Inoguchi (ed.), *Human Beliefs and Values in Incredible Asia: South and Central Asia in Focus*, Tokyo 2008.

impact of the Japan Centers for Human Development, for which public interest has been showing signs of decline in recent years. While the Japanese actively established and promoted Japan Centers for Human Development and similar institutions for a lengthy period of time, the applicability and relevance of the knowledge received at those centres is increasingly being questioned. This has to do with the fact that Japanese companies and institutions representing Japanese economic interests in the Central Asian region are not yet as numerous as those representing the economic interests of other countries (e.g. China, South Korea). This means that the opportunities arising for graduates of Japan Centers and Japanese language departments and business courses to apply their knowledge while working with the Japanese business community are rather limited. As mentioned in the previous sections, Japanese foreign policy defines its goals in Central Asia and this region's significance to Japan poorly, thereby constituting another factor which slows down Japanese economic and political penetration in this region. As a result, many graduates of Japanese language departments and courses at Japan Centers ended up either in the local tourism industry, which benefited from the increase in Japanese tourism in the years immediately following the collapse of the Soviet Union, or going to Japan for education and then finding some kind of employment in Japan, or being forced to look for opportunities unconnected with their Japan-related education. Those educated in Japan often found themselves to be over-qualified for local conditions, as exemplified by the medical doctors who were trained in Japanese conditions but later had to work in Central Asian clinics with little or none of the equipment on which they were trained in Japan.

Other factors behind the low level of Japanese economic penetration of this region are hesitation on the part of Japanese businesses, the rather slow decision-making process within the Japanese corporate culture and government-related agencies, and the Central Asian countries' lack of the kind of information and infrastructure which Japanese companies normally expect from a country where they aim to commit themselves commercially. This resulted in a surplus of people with Japanese language skills and very few employment opportunities, a fact which called into question the necessity for such education and led to a decline in interest. This creates a vicious circle for programmes like this, because such a low level of effectiveness and falling numbers of students enrolling and graduating discourage the Japanese authorities from opening new programmes and often undermine the case for such programmes focused on or initiated by Japan in the Central Asian region.²³

23 On the occasion of the evaluation hearing for the Special Program for Central Asian countries at the Ministry of Education, Science, Sports and Technology, the question of the necessity of such programmes was raised by members of the committee, who questioned their efficiency and the need for such a policy in light of the increasing Chinese educational presence. September 2011.

These training centres and language courses were initially established to support Japanese initiatives by fostering locally-grown leaders to strengthen political dialogue (in Senior Officials' Meetings, SOMs), intellectuals' dialogue, and cultural and people-to-people exchanges. The significance of the Japanese schemes also resided in their promotion of intra-regional co-operation, with Japan aiming to serve as an impartial third party promoting confidence-building in Central Asia. These goals were always supported by Central Asian governments, as most of them consider Japan to be a strategic partner in their policies. However, the lack of economic links between Japan and these states, as well as hesitation on the Japanese side (in both business and government circles) in taking a more active role in the region, renders political and cultural initiatives incomplete. Very often, Japanese readiness to invest in political and cultural aspects of co-operation without any clearly defined economic goals and strategy in this region leaves Central Asian countries puzzled.

Conclusion

Japan has been searching actively for modes of co-operation with Central Asian countries ever since they became independent. This has resulted in an evolution of its foreign policy in the region from the initial mode of Eurasian/Silk Road diplomacy to the notions of "Central Asia plus Japan" and of crafting an "Arc Freedom and Prosperity". In the years since 1991, such attempts have produced various Japan-related activities in Central Asia, with Japan being regarded as a strategic partner for many of these newly independent states and providing assistance instrumental to their economic and social development. This created a good basis for larger-scale co-operation between the region's countries and Japan. So far, however, only a small fraction of this potential has manifested itself, and much remains to be done. Ever since the Central Asian countries gained their independence, Japan's diplomacy towards them, while seen as important, has lacked concrete policy objectives, political will, and dynamism as far as plans of action were concerned. At the same time, Japan has always been regarded as a strategic partner for most Central Asian states, but co-operation in many cases was limited to financial aid and technical grants and assistance programmes.

To some extent, this limited success on the part of Japanese foreign policy results from the fact that the position of Central Asia is not yet sufficiently clear in Japanese foreign-policy and business circles. In certain cases, Central Asia is classified as part of the Middle East, and in others as Western Asia or Europe. This suggests that Central Asia still has to be conceptualized as a region in its own right. It now seems that while Central Asian states have appeared on the political map of the world, these countries have yet to fit in and be conceptualized in terms of their economic and social placement on the

map of Japanese diplomacy. Therefore, defining what Central Asia means to Japan and what the benefits and goals of Japanese involvement in this region are will help to improve the effectiveness of its involvement in this region.

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 confer privileges restricted to information exchange and attendance at meetings in individual cases and on invitation.

Southeast European Co-operative Initiative (SECI)
South Eastern European Co-operation Process (SEECP)
Black Sea Economic Co-operation (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.org
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: 2,994,667 (OSCE ranking: 41)⁴

*GDP per capita in international dollars at PPP rates*⁵: 8,000

GDP growth: 3.5 per cent (OSCE ranking: 17)⁶

Armed forces (active): 14,245 (OSCE ranking: 36)⁷

Memberships and forms of co-operation: CoE (1995), NATO (2009), EAPC, SAA (2006), Stability Pact for South Eastern Europe, CEFTA, CEI (1996), SECI, SEECP, BSEC.

2. Andorra

Date of accession: April 1996

Scale of contributions: 0.125 per cent (40)

Area: 468 km² (51)

Population: 84,825 (52)

GDP per capita in international dollars at PPP rates: 46,700⁸

GDP growth: 3.8 per cent (14)⁹

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: 2,967,975 (42)

GDP per capita in international dollars at PPP rates: 5,700

GDP growth: 2.6 per cent (24)

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. Because the data in this category comes from various years it does not make sense to compare states or provide a ranking.

6 Of 55 states.

7 Of 54 states.

8 2009 (estimated).

9 2009 (estimated).

Armed forces (active): 48,570 (18)
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: 8,217,280 (24)
GDP per capita in international dollars at PPP rates: 40,400
GDP growth: 2 per cent (28)
Armed forces (active): 25,900 (26)
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: 8,372,373 (23)
GDP per capita in international dollars at PPP rates: 10,900
GDP growth: 5 per cent (10)
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: 9,577,552 (21)
GDP per capita in international dollars at PPP rates: 13,600
GDP growth: 7.6 per cent (4)
Armed forces (active): 72,940 (12)
Memberships and forms of co-operation: EAPC, PfP (1995), CIS (1991), CEI (1996), CSTO.

7. Belgium

Date of accession: June 1973
Scale of contributions: 3.24 per cent (10)
Area: 30,528 km² (43)
Population: 10,431,477 (18)
GDP per capita in international dollars at PPP rates: 37,800

GDP growth: 2 per cent (28)
Armed forces (active): 37,882 (20)
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: 4,622,163 (36)
GDP per capita in international dollars at PPP rates: 6,600
GDP growth: 0.8 per cent (42)
Armed forces (active): 10,577 (39)
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: 7,093,635 (28)
GDP per capita in international dollars at PPP rates: 13,500
GDP growth: 0.2 per cent (45)
Armed forces (active): 31,315 (22)
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 (1996), 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: 34,030,589 (11)
GDP per capita in international dollars at PPP rates: 39,400
GDP growth: 3.1 per cent (20)
Armed forces (active): 65,722 (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. Croatia

Date of accession: March 1992

Scale of contributions: 0.19 per cent (33)

Area: 56,594 km² (35)

Population: 4,483,804 (38)

GDP per capita in international dollars at PPP rates: 17,400

GDP growth: -1.4 per cent (50)

Armed forces (active): 18,600 (34)

Memberships and forms of co-operation: CoE (1996), NATO (2009), EAPC, EU Candidate Country,¹⁰ 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)¹¹

Population: 1,120,489 (47)¹²

GDP per capita in international dollars at PPP rates: 21,000

GDP growth: 1 per cent (41)

Armed forces (active): 10,000 (41)¹³

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: 10,190,213 (19)

GDP per capita in international dollars at PPP rates: 25,600

GDP growth: 2.3 per cent (26)

Armed forces (active): 23,441 (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: 5,529,888 (30)

¹⁰ Croatia is set to join the EU in 2013.

¹¹ Greek sector: 5,896 km², Turkish sector: 3,355 km².

¹² Total of Greek and Turkish sectors.

¹³ Turkish sector: 5,000.

GDP per capita in international dollars at PPP rates: 36,600
GDP growth: 2.1 per cent (27)
Armed forces (active): 18,707 (33)
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: 1,282,963 (46)
GDP per capita in international dollars at PPP rates: 19,100
GDP growth: 3.1 per cent (20)
Armed forces (active): 5,450 (46)
Memberships and forms of co-operation: OECD (2010), 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: 5,259,250 (32)
GDP per capita in international dollars at PPP rates: 35,400
GDP growth: 3.1 per cent (20)
Armed forces (active): 22,250 (29)
Memberships and forms of co-operation: OECD (1969), CoE (1989), EAPC, PfP (1994), EU (1995), WEU Observer (1995), Barents Euro-Arctic Council, Nordic Council (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: 643,801 km² (6)
Population: 65,312,249 (5)
GDP per capita in international dollars at PPP rates: 33,100
GDP growth: 1.5 per cent (33)
Armed forces (active): 238,591 (5)¹⁴

¹⁴ As of the 2011 edition of *The Military Balance*, the ca. 103,000 members of France's *Gendarmerie nationale* are no longer counted as active members of the armed forces.

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: 4,585,874 (37)

GDP per capita in international dollars at PPP rates: 4,900

GDP growth: 6.4 per cent (8)

Armed forces (active): 20,655 (32)

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: 81,471,834 (3)

GDP per capita in international dollars at PPP rates: 35,700

GDP growth: 3.5 per cent (17)

Armed forces (active): 251,465 (4)

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: 10,760,136 (17)

GDP per capita in international dollars at PPP rates: 29,600

GDP growth: -4.5 per cent (53)

Armed forces (active): 138,936 (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: 832 (56)
GDP per capita in international dollars at PPP rates: n/a
GDP growth: n/a
Armed forces (active): 110 (51)¹⁵
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: 9,976,062 (20)
GDP per capita in international dollars at PPP rates: 18,800
GDP growth: 1.2 per cent (38)
Armed forces (active): 29,626 (23)
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: 311,058 (51)
GDP per capita in international dollars at PPP rates: 38,300
GDP growth: -3.5 per cent (52)
Armed forces (active): none
Memberships and forms of co-operation: OECD (1961), CoE (1950), NATO (1949), EAPC, EU Candidate Country, 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: 4,670,976 (35)
GDP per capita in international dollars at PPP rates: 37,300
GDP growth: -1 per cent (48)
Armed forces (active): 10,460 (40)
Memberships and forms of co-operation: OECD (1961), CoE (1949), EAPC, PfP (1999), EU (1973), WEU Observer (1992), Stability Pact for South Eastern Europe.

¹⁵ Authorized strength 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: 61,016,804 (7)

GDP per capita in international dollars at PPP rates: 30,500

GDP growth: 1.3 per cent (35)

Armed forces (active): 184,609 (6)¹⁶

Memberships and forms of co-operation: G8 (1975), OECD (1962), 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: 15,522,373 (15)

GDP per capita in international dollars at PPP rates: 12,700

GDP growth: 7 per cent (5)

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: 5,587,443 (29)

GDP per capita in international dollars at PPP rates: 2,200

GDP growth: -1.4 per cent (50)

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: 2,204,708 (43)

GDP per capita in international dollars at PPP rates: 14,700

GDP growth: -0.3 per cent (47)

¹⁶ As of the 2011 edition of *The Military Balance*, the ca. 117,000 members of Italy's *Carabinieri* are no longer counted as active members of the armed forces.

Armed forces (active): 5,745 (45)

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: 35,236 (53)

GDP per capita in international dollars at PPP rates: 141,100¹⁷

GDP growth: 1.8 per cent (30)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: 3,535,547 (40)

GDP per capita in international dollars at PPP rates: 16,000

GDP growth: 1.3 per cent (35)

Armed forces (active): 10,640 (38)

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: 503,302 (49)

GDP per capita in international dollars at PPP rates: 82,600

GDP growth: 3.4 per cent (19)

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 2008 (estimated).

¹⁸ 2008 (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: 2,077,328 (44)

GDP per capita in international dollars at PPP rates: 9,700

GDP growth: 0.7 per cent (43)

Armed forces (active): 8,000 (43)

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: 408,333 (50)

GDP per capita in international dollars at PPP rates: 25,600

GDP growth: 3.7 per cent (16)

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: 4,314,377 (39)

GDP per capita in international dollars at PPP rates: 2,500

GDP growth: 6.9 per cent (6)

Armed forces (active): 5,354 (47)

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: 30,539 (55)

GDP per capita in international dollars at PPP rates: 30,000²¹

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>.

GDP growth: n/a
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: 661,807 (48)
GDP per capita in international dollars at PPP rates: 10,100
GDP growth: 1.1 per cent (40)
Armed forces (active): 3,127 (48)
Memberships and forms of co-operation: CoE (2007), EAPC, PfP (2006), EU Candidate Country, 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: 16,847,007 (14)
GDP per capita in international dollars at PPP rates: 40,300
GDP growth: 1.7 per cent (32)
Armed forces (active): 37,368 (21)²²
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: 4,691,849 (34)
GDP per capita in international dollars at PPP rates: 54,600
GDP growth: 0.4 per cent (44)
Armed forces (active): 26,450 (25)
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.

²¹ 2006 (estimated).

²² As of the 2011 edition of *The Military Balance*, members of the Netherlands *Koninklijke Marechaussee* (Royal National Police Force) are no longer counted as active members of the armed forces.

39. Poland

Date of accession: June 1973

Scale of contributions: 1.35 per cent (17)

Area: 312,685 km² (15)

Population: 38,441,588 (10)

GDP per capita in international dollars at PPP rates: 18,800

GDP growth: 3.8 per cent (14)

Armed forces (active): 100,000 (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: 10,760,305 (16)

GDP per capita in international dollars at PPP rates: 23,000

GDP growth: 1.4 per cent (34)

Armed forces (active): 43,330 (19)

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: 21,904,551 (13)

GDP per capita in international dollars at PPP rates: 11,600

GDP growth: -1.3 per cent (49)

Armed forces (active): 71,745 (13)

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 (1996), 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: 138,739,892 (2)

GDP per capita in international dollars at PPP rates: 15,900

GDP growth: 4 per cent (12)

Armed forces (active): 1,046,000 (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: 31,817 (54)

GDP per capita in international dollars at PPP rates: 36,200²³

GDP growth: -13 per cent (54)²⁴

Armed forces (active): none

Memberships and forms of co-operation: CoE (1988).

44. Serbia

Date of accession: November 2000²⁵

Scale of contributions: 0.14 per cent (39)

Area: 77,474 km² (30)

Population: 7,310,555 (27)

GDP per capita in international dollars at PPP rates: 10,900

GDP growth: 1.8 per cent (30)

Armed forces (active): 29,125 (24)

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: 5,477,038 (31)

GDP per capita in international dollars at PPP rates: 22,000

GDP growth: 4 per cent (12)

Armed forces (active): 16,531 (35)

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 2009.

24 2009 (estimated).

25 Yugoslavia was suspended from 7 July 1992 to 10 November 2000.

46. Slovenia

Date of accession: March 1992

Scale of contributions: 0.22 per cent (32)

Area: 20,273 km² (47)

Population: 2,000,092 (45)

GDP per capita in international dollars at PPP rates: 28,200

GDP growth: 1.2 per cent (38)

Armed forces (active): 7,600 (44)

Memberships and forms of co-operation: OECD (2010), CoE (1993), NATO (2004), EAPC, EU (2004), Associate Partner of the WEU (1996), Stability Pact for South Eastern Europe, CEI (1992), SECI, SEECP.

47. Spain

Date of accession: June 1973

Scale of contributions: 4.58 per cent (8)

Area: 505,370 km² (8)

Population: 46,754,784 (8)

GDP per capita in international dollars at PPP rates: 29,400

GDP growth: -0.1 per cent (46)

Armed forces (active): 142,212 (8)²⁶

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: 9,088,728 (22)

GDP per capita in international dollars at PPP rates: 39,100

GDP growth: 5.5 per cent (9)

Armed forces (active): 21,070 (31)²⁷

Memberships and forms of co-operation: OECD (1961), CoE (1949), EAPC, PfP (1994), EU (1995), WEU Observer (1995), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1992), Stability Pact for South Eastern Europe.

26 As of the 2011 edition of *The Military Balance*, the ca. 73,000 members of Spain's *Guardia Civil* are no longer counted as active members of the armed forces.

27 Compulsory military service was abolished on 1 July 2010. In the 2011 edition of *The Military Balance*, the members of Sweden's general staff are counted as active members of the armed forces.

49. Switzerland

Date of accession: June 1973

Scale of contributions: 2.81 per cent (12)

Area: 41,277 km² (41)

Population: 7,639,961 (25)

GDP per capita in international dollars at PPP rates: 42,600

GDP growth: 2.6 per cent (24)

Armed forces (active): 25,620 (27)

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: 7,627,200 (26)

GDP per capita in international dollars at PPP rates: 2,000

GDP growth: 6.5 per cent (7)

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: 78,785,548 (4)

GDP per capita in international dollars at PPP rates: 12,300

GDP growth: 8.2 per cent (3)

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: 4,997,503 (33)

GDP per capita in international dollars at PPP rates: 7,500

GDP growth: 9.2 per cent (1)

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: 45,134,707 (9)

GDP per capita in international dollars at PPP rates: 6,700

GDP growth: 4.2 per cent (11)

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), Observer to the Stability Pact for South Eastern Europe, CEI (1996), BSEC.

54. United Kingdom

Date of accession: June 1973

Scale of contributions: 9.35 per cent (2)

Area: 243,610 km² (17)

Population: 62,698,362 (6)

GDP per capita in international dollars at PPP rates: 34,800

GDP growth: 1.3 per cent (35)

Armed forces (active): 178,470 (7)

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: 313,232,044 (1)

GDP per capita in international dollars at PPP rates: 47,200

GDP growth: 2.8 per cent (23)

Armed forces (active): 1,563,996 (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: 28,128,600 (12)

GDP per capita in international dollars at PPP rates: 3,100

GDP growth: 8.5 per cent (2)

Armed forces (active): 67,000 (14)

Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991), CSTO, SCO.

Sources:

Date of accession:

<http://web.archive.org/web/20100826040207/http://www.osce.org/about/13131.html>

Scale of contributions:

OSCE, decision of the Permanent Council, PC.DEC/980 Annex, 23 December 2010. In: OSCE Prague Office, Depository Library Series, OSCE new Releases 2010 (CD-ROM).

Area:

https://www.cia.gov/library/publications/the-world-factbook/rankorder/rawdata_2147.txt

Population:

(estimated as of July 2011) https://www.cia.gov/library/publications/the-world-factbook/rankorder/rawdata_2119.txt

GDP per capita in international dollars at PPP rates:

(estimated as of 2010, unless stated to the contrary)

https://www.cia.gov/library/publications/the-world-factbook/rankorder/rawdata_2004.txt

GDP growth:

(estimated as of 2010, unless stated to the contrary)

https://www.cia.gov/library/publications/the-world-factbook/rankorder/rawdata_2003.txt

Armed forces (active):

*International Institute for Strategic Studies (ed.), *The Military Balance 2011*, London 2011*

OSCE Conferences, Meetings, and Events 2010/2011

2010

13-14 September	Kazakh OSCE Chairmanship, incoming Lithuanian OSCE Chairmanship for 2011, OCEEA: Expert meeting on assessing the OSCE's future contribution to international energy security co-operation, Vilnius
15 September	Internet Governance Forum – Joint OSCE-Council of Europe open forum on “Hate Speech vs. Freedom of Expression”, Vilnius
16-17 September	OSCE Chairmanship: Chairmanship expert seminar on e-voting, Vienna
21-23 September	Forum for Security Co-operation (FSC): Seminar on the implementation of the Code of Conduct on Politico-Military Aspects of Security in Eastern Europe, Minsk
30 September-8 October	First part of the three-part review conference ahead of the OSCE Summit to be held in Astana on 1-2 December 2010, Warsaw
8-11 October	Parliamentary Assembly: Fall Meeting 2010, Palermo
12 October	OSCE Academy, OSCE Secretariat, and OSCE Chairmanship: first OSCE Talks event, “20/20 OSCE and Central Asia: Past visions, future perspectives”, Bishkek
18-26 October	Second part of the three-part review conference ahead of the OSCE Summit, Vienna
14-15 October	OSCE Secretariat/Section for External Co-operation: 2010 Mediterranean Conference, Valletta
20-21 October	OSCE Strategic Police Matters Unit (SPMU) in co-operation with the Lithuanian Ministry of the Interior and UNODC: Regional High Level Expert Workshop on enhancement of co-operation in synthetic drug supply reduction in the Baltic region, Vilnius
28 October	OSCE Chairmanship and French Ministry of Foreign and European Affairs: 20th anniversary of the Charter of Paris, Paris
9-10 November	OCEEA: CASE (Civic Action for Security and Environment) co-ordination meeting, Vienna
17 November	UNECE/OCEEA: Conference on Financing the development of road and rail transport infrastructures, Vienna
18-19 November	UNECE/OCEEA: 64th session of the UNECE Working Party on Rail Transport (SC.2), Vienna

26-28 November	Third part of the three-part review conference ahead of the OSCE Summit, Astana
1-2 December	OSCE's seventh Summit in the OSCE's history, Astana
10 December	ODIHR: Supplementary Human Dimension Meeting on Freedom of Religion or Belief, Vienna
13 December	Conflict Prevention Centre (CPC): Meeting of the Heads of Verification Centres, Vienna
13 December	Vienna Experts Roundtable: Outcome of the OSCE Summit, Vienna

2011

1 January	Lithuania takes over the OSCE Chairmanship from Kazakhstan. Foreign Minister Audronius Ažubalis becomes Chairman-in-Office
27-28 January	FSC and the UN Office for Disarmament Affairs: Workshop to identify the proper role of the OSCE in facilitation of UN Security Council Resolution 1540
7-8 February	OCEEA: First Preparatory Meeting of the Nineteenth OSCE Economic and Environmental Forum, focusing on development of sustainable energy, Vienna
14-16 February	OCEEA: Climate Change and Security in Eastern Europe, Lviv
1-2 March	FSC: Annual Implementation Assessment Meeting of the Vienna Document 1999, Vienna
3-4 March	OSCE Gender Section, in co-operation with the Lithuanian Ministry of Social Security and Labour and the University of Vilnius/Gender Studies Centre: Conference "Women's Entrepreneurship in the OSCE: Trends and Good Practices", Vilnius
4-5 April	OSCE Chairmanship/OCEEA: Second Preparatory Meeting of the Nineteenth OSCE Economic and Environmental Forum on "Development of Sustainable Transport", Druskininkai
5 April	OSCE and Institute of International Relations and Political Science/Vilnius University: OSCE Talks, "Building bridges: security community and partnerships for change", Vilnius
13 April	ODIHR: Training of Roma and Sinti organizations on monitoring and responding to hate crimes, Warsaw

14-15 April	OSCE Chairmanship/ODIHR: Supplementary Human Dimension Meeting on National Human Rights Institutions (ombudsinstitutions, commissions, institutes and other mechanisms), Vienna
14 April	ODIHR, ICTY, and UNICRI present the joint project on “Supporting the Transfer of Knowledge and Materials of War Crimes Cases from the ICTY to National Jurisdictions” at the UN Commission on Crime Prevention and Criminal Justice, Vienna
2-3 May	OSCE Chairmanship: Workshop on post-conflict rehabilitation: stabilization, reconstruction and peace-building, Vienna
4-6 May	OSCE Chairmanship: Joint visit to Italy and the Holy See by the OSCE Chairperson-in-Office Personal Representatives on tolerance and non-discrimination
9-10 May	OSCE Chairmanship: Conference “A Comprehensive Approach to Cyber Security: Exploring the Future OSCE Role”, Vienna
13 May	ODIHR: Launch of ODIHR Programme “Training Against Hate Crimes for Law Enforcement”, Vienna
17 May	ODIHR: ODIHR’s 20th-Anniversary Celebration, Warsaw
18 May	OSCE Chairmanship/ODIHR: Human Dimension Seminar on the role of political parties in the political process, Warsaw
23-24 May	OSCE Secretariat/Section for External Co-operation: 2011 OSCE-Mongolia Conference, Ulaanbaatar
24-25 May	FSC: High-Level Military Doctrine Seminar, Vienna
27 May	OSCE Chairmanship and UNHCR: Special thematic event on “Internally Displaced Persons and Refugees”, Vienna
30 May	OSCE Chairmanship/OCEEA: OSCE Chairmanship workshop on “Economic and Environmental Activities as Confidence-building Measures”, Vienna
7-8 June	OSCE Chairmanship/Representative on Freedom of the Media: Conference on Safety of Journalists in the OSCE Region, Vilnius
16-17 June	OSCE Chairmanship: Conference “Combating drug trafficking and enhancing border security and management in the OSCE area”, Vienna

20-21 June	OSCE Secretariat/Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings: Conference “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice”, Vienna
29 June-1 July	OSCE Chairmanship: Annual Security Review Conference (ASRC), Vienna
29 June	OCEEA: Conference “Aarhus Centres on the Road to Rio+20”, Chişinău
5 July	OSCE Secretariat/OCEEA: Event “On the road to Marrakesh: role of civil society in fighting corruption”, Vienna
6-10 July	20th Annual Session of the OSCE Parliamentary Assembly, Belgrade
7-8 July	OSCE Chairmanship/Office of the Representative on Freedom of the Media/ODIHR: Supplementary Human Dimension Meeting on the Promotion of Pluralism in New Media, Vienna
13-14 July	OSCE Chairmanship/ODIHR: OSCE Conference for National Human Rights Institutions (ombuds institutions, human rights commissions, institutes and other mechanisms) in the OSCE area, Vilnius
30 August	Representative on Freedom of the Media: Workshop on Media Monitoring in Missions, Warsaw

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Abbreviations

ACFE	Adapted Treaty on Conventional Armed Forces in Europe
ACMF	Advisory Committee on Management and Finance
ACHR	American Convention on Human Rights
AEI	Alliance for European Integration
AIAM	Annual Implementation Assessment Meeting
AMG	Advisory and Monitoring Group
AP	Agrarian Party
APDA	Asian Population and Development Association
ASEAN	Association of Southeast Asian Nations
ASRC	Annual Security Review Conference
ATU	Action against Terrorism Unit
AU	African Union
BISS	Belarusian Institute for Strategic Studies
BLA	Board and Lodging Allowance
BSEC	Black Sea Economic Cooperation
BMSC	Border Management Staff College
CA	Co-operation Agreement
CACO	Central Asian Cooperation Organization
CAG	Citizen Advisory Group
CAT	Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
CBMs	Confidence-Building Measures
CBSS	Council of the Baltic Sea States
CCER	Central Commission for Elections and Referenda
CDE	Conference on Confidence- and Security-Building Measures and Disarmament in Europe
CDRC	Criminal Defence Resource Centre
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
CEPEJ	Commission européenne pour l'efficacité de la justice/European Commission for the Efficiency of Justice
CEPS	Centre for European Policy Studies
CERD	Committee on the Elimination of Racial Discrimination
CES	Centre for Eastern Studies
CFE Treaty	Treaty on Conventional Armed Forces in Europe
CFSP	Common Foreign and Security Policy

CICA	Conference on Interaction and Confidence-Building Measures in Asia
CIDA	Canadian International Development Agency
CiO	Chairperson-in-Office
CIS	Commonwealth of Independent States
CLV	Cambodia, Laos, and Vietnam
CoE	Council of Europe
CORE	Centre for OSCE Research
CPC	Conflict Prevention Centre
CPR	Centre for Parliamentary Reform
CPRSI	Contact Point for Roma and Sinti Issues
CSBMs	Confidence- and Security-Building Measures
CSCE	Conference on Security and Co-operation in Europe (since January 1995 OSCE)
CSI	Community Security Initiative
CSTO	Collective Security Treaty Organization
DCAF	Geneva Centre for the Democratic Control of Armed Forces
DFID	Department for International Development
EAM	Election Assessment Mission
EaP	Eastern Partnership
EBRD	European Bank for Reconstruction and Development
EC	European Commission
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECOSOC	UN Economic and Social Council
ECRI	European Commission against Racism and Intolerance
ECtHR	European Court of Human Rights
EED	Economic and Environmental Dimension
EEF	Economic and Environmental Forum
EIU	Economist Intelligence Unit
ENP	European Neighbourhood Policy
EOM	Election Observation Mission
ERRC	European Roma Rights Centre
EP	European Parliament
EPLO	European Peacebuilding Liaison Office
ESDP	European Security and Defence Policy
EST	European Security Treaty
EU	European Union
EUMM	European Monitoring Mission
EurAsEC	Eurasian Economic Community
FCNM	Framework Convention for the Protection of National Minorities
FIDH	International Federation for Human Rights
FLS	Forward-looking Strategies for the Advancement of Women

FRA	European Union Agency for Fundamental Rights
FSC	Forum for Security Co-operation
G8	Group of Eight
G20	Group of Twenty
GDP	Gross Domestic Product
GNI	Gross National Income
GNP	Gross National Product
GONGOS	Government-Organized NGOs
HCNM	High Commissioner on National Minorities
HDIM	Human Dimension Implementation Meeting
HDS	Human Dimension Seminar
HoM	Head of Mission
HRE	Human Rights Education
HREA	Human Rights Education Associates
IACtHR	Inter-American Court of Human Rights
ICC	International Coordinating Committee
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDEA	International Institute for Democracy and Electoral Assistance
IFES	International Foundation for Electoral Systems
IGOs	Intergovernmental Organizations
IISEPS/ NISEPI	Independent Institute of Socio-Economic and Political Studies/Nezavisimyi Institut Sotsial'no-Ekonomicheskikh i Politicheskikh Issledovaniy
ILO	International Labour Organization
IMEMO	Institute of World Economy and International Relations
IMF	International Monetary Fund
IMU	Islamic Movement of Uzbekistan
IOBCSK	Independent Oversight Board for Civil Service of Kosovo
IOM	International Organization for Migration
IPA	Inter-Parliamentary Assembly
IPIs	International Parliamentary Institutions
IPU	Inter-Parliamentary Union
IRPT	Islamic Renaissance Party of Tajikistan
IRU	International Romani Union
ISAF	International Security Assistance Force
JCG	Joint Consultative Group
JICA	Japan International Cooperation Agency

KazISS	Kazakhstan Institute for Strategic Studies
KCPSED	Kosovo Centre for Public Safety Education and Development
KFOR	Kosovo Force
KGB	Komitet Gosudarstvennoy Bezopasnosti/Committee for State Security
KIPA	Kosovo Institute of Public Administration
KJI	Kosovo Judicial Institute
KLC	Kosovo Law Centre
KOSMA	Kosovo Media Association
KPSS	Kosovo Police Service School
LAS	League of Arab States
LPSCs	Local Public Safety Committees
LPU	Local Police Unit
LTOs	Long-Term Observers
MAP	Membership Action Plan
MC	Ministerial Council
MCSCs	Municipal Community Safety Councils
MFA	Ministry of Foreign Affairs
MIA	Ministry of Internal Affairs
MoU	Memorandum of Understanding
MP	Member of Parliament
MPC	Mediterranean Partner for Co-operation
MPI	Max Planck Institute for Comparative Public Law and International Law
NAC	North Atlantic Council
NACC	North Atlantic Cooperation Council
NAFTA	North American Free Trade Area
NAM	Needs Assessment Mission
NAP	National Action Plan
NATO	North Atlantic Treaty Organization
NDI	National Democratic Institute
NGOs	Non-Governmental Organizations
NHRIs	National Human Rights Institutions
NISEPI/ IISEPS	Nezavisimyi Institut Sotsial'no-Ekonomicheskikh i Politicheskikh Issledovaniy/Independent Institute of Socio-Economic and Political Studies
NRC	NATO-Russia Council
NSC	National Security Committee
OAS	Organization of American States
OCEEA	Office of the Co-ordinator of OSCE Economic and Environmental Activities
ODA	Official Development Assistance

ODI	Overseas Development Institute
ODIHR	Office for Democratic Institutions and Human Rights
OECD	Organization for Economic Co-operation and Development
OHCHR	Office of the High Commissioner for Human Rights
OIC	Organisation of Islamic Cooperation
OMiK	OSCE Mission in Kosovo
OMON	Otryad Militsii Osobogo Naznacheniya/Special Police Unit of the Ministry of Internal Affairs
OPCAT	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
OSCE	Organization for Security and Co-operation in Europe
OSI	Open Society Institute
OSR/CTHB	Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings
PA	Parliamentary Assembly
PACE	Parliamentary Assembly of the Council of Europe
PBPB	Performance-Based Programme Budgeting
PC	Permanent Council
PDP	People's Democratic Party
PER	Party for Economic Reform
PER	Project on Ethnic Relations
PHARE	Poland and Hungary Aid for the Reconstruction of the Economy
PIK	Police Inspectorate of Kosovo
POW	Prisoner of War
PPS	Preliminary Post-Election Statement
PSC	Political and Security Committee
RFOM	Representative on Freedom of the Media
RNC	Roma National Congress
RTK	Radio Television of Kosovo
SAA	Stabilization and Association Agreement
SALW	Small Arms and Light Weapons
SARA	Scan, Analyze, Respond, and Assess
SCA	Sub-Committee on Accreditation
SCO	Shanghai Cooperation Organisation
SDP	Social Democratic Party
SDPK	Social Democratic Party of Kyrgyzstan
SECI	Southeast European Cooperative Initiative
SEECF	South-East European Cooperation Process
SES	Single Economic Space
SHDM	Supplementary Human Dimension Meeting
SMART	Specific, Measurable, Attainable, Relevant, and Time-bound
SOMs	Senior Officials' Meetings
SPMU	Strategic Police Matters Unit

SRSG	Special Representative of the UN Secretary-General for Kosovo
SSR	Security Sector Reform
START	Strategic Arms Reduction Treaty
STOs	Short-Term Observers
TANDIS	Tolerance and Non-Discrimination Information System
TEU	Treaty on European Union
TNTs	Transnational Threats
UAV	Unmanned Aerial Vehicle
UÇK/KLA	Ushtria Çlirimtarë e Kosovës/Kosovo Liberation Army
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN/UNO	United Nations/United Nations Organization
UNCHR	United Nations Commission on Human Rights
UNDM	UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities
UNDP	United Nations Development Programme
UNEAD	United Nations Electoral Assistance Division
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
UNHRC	United Nations Human Rights Council
UNICRI	United Nations Interregional Crime and Justice Research Institute
UN-INSTRAW	United Nations International Research and Training Institute for the Advancement of Women
UNMIK	United Nations Interim Administration Mission in Kosovo
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
UPR	Universal Periodic Review
USAID	United States Agency for International Development
USSR	Union of Soviet Socialist Republics
UTO	United Tajik Opposition
VD	Vienna Document
WCED	World Commission on Environment and Development
WEU	Western European Union
WMD	Weapons of Mass Destruction
WTO	World Trade Organization

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