Wolfgang Zellner

Transnational Threats and Challenges – An Emerging Key Focus of the OSCE

In 2003, the OSCE Maastricht Ministerial Council Meeting adopted the "OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century",[1] the Organization's first comprehensive approach to transnational threats and challenges. Since then, this issue has become one of the key activities of the OSCE, in terms of both policy and practical activities. At the same time, addressing transnational threats marks one of the few fields where the 57 OSCE participating States can agree both on substantive documents and on concrete action. This contribution gives an overview of the development of the OSCE's *acquis* in the field of transnational threats and challenges, both at a general level and in terms of the Organization's sector-specific strategies on anti-terrorism, policing, and combating trafficking in human beings. It analyses the scope and quality of the OSCE's approaches, as well as the related working instruments and types of activity. An assessment of the impact of the OSCE's activities, including possible counterproductive effects, is beyond the scope of this article.

The 2003 Maastricht Strategy[2]

During the 1970s and 1980s, the CSCE focused on the Cold War, trying to contain, defuse, and even overcome it through dialogue, norm-setting, and co-operation. In the 1990s, the OSCE refocused its activities primarily on the resolution of (ethno-) national conflicts, seeking to prevent and manage them and to rehabilitate war-torn countries. Although transnational threats are touched upon in earlier OSCE documents, e.g. the 1999 Charter for European Security, the 2003 Maastricht Strategy is the first OSCE document that deals in depth with this "new" type of threat. The primary motivation for doing so was certainly the post-9/11 environment, in which terrorism and related transnational threats were seen as the paramount issues of international security. The Maastricht Strategy consists of two parts: an analysis of the nature and causes of transnational threats, titled "Threats to security and stability in

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1   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 (herein after referred to as "Maastricht Strategy"). OSCE documents are available at the OSCE's website, at: http://www.osce.org.

2   This section represents a revised and enlarged version of the first section of Wolfgang Zellner, The OSCE and transnational security threats, in: *Security and Human Rights* 4/2008, pp. 311-321.

the twenty-first century", and a section on "The OSCE response", containing a more general strategic approach as well as sector-specific strategies.

The two key sentences of the Strategy's analytic section read as follows: "Threats to security and stability in the OSCE region are today more likely to arise as negative, destabilizing consequences of developments that cut across the politico-military, economic and environmental and human dimensions, than from any major armed conflict." And: "Furthermore, threats often do not arise from within a single state, but are transnational in character."[3] As factors that may cause transnational threats, the document identifies, among others, "weak governance, and a failure by States to secure adequate and functioning democratic institutions", "systematic violations of human rights and fundamental freedoms", "deepening economic disparities", "environmental degradation", and "demographic factors".[4] As is the case with many other key OSCE terms (such as "national minority"), the document does not make any attempt to define the term "transnational". However, the use of the expression "not within a single State" and the cases of transnational threats dealt with in the Maastricht Strategy show that the term is used in a way consistent with a scholarly understanding of it. In accordance with this understanding, a transnational relationship (whether conflictual or not) is one with a trans-boundary character that includes at least one non-state actor.

Although the Maastricht Strategy recognizes that "threats emerging from inter-State and intra-State conflicts remain the broadest category of threat",[5] it stops short of discussing the highly complicated relationship among international, national, and transnational conflict constellations. While it is clear that these terms represent Weberian ideal types rather than concrete empirical findings, it is always tempting to simply declare the predominance or even exclusivity of a single, one-dimensional conflict constellation during a certain period. However, the reality is more complex: While the ethno-political conflicts in the 1990s were predominantly national in character, they have almost always included an international dimension, and, though this is frequently overlooked, transnational aspects, e.g. war economies driven by guerilla groups or breakaway regions based on smuggling, trafficking, and blackmail "taxes". In the same way, the 2008 war in Georgia and the disputes between Russia and Western countries remind us of the fact that the "old" inter-state conflicts in Europe have not simply been replaced by "new" national and/or transnational ones. Rather, transnational threats and challenges have added a new dimension of conflict that is interlinked with other conflict dimensions in multiple ways. For example, while the causes of the conflict in Afghanistan are predominantly national and transnational, the political answers given are clearly international in character.

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3   Maastricht Strategy, cited above (Note 1), paras 3 and 7.
4   Ibid., paras 4 and 5.
5   Ibid., para. 9.

While the Maastricht Strategy does not address these complex interrelationships, it clearly identifies the major types of transnational threats and outlines ways to address them. The document starts with terrorism, the specific danger of which is characterized by "its ability to use asymmetric methods to bypass traditional security and defence systems".[6] In this way, the document nicely paraphrases one key feature of transnational relations, namely the relative loss of power by state actors compared to non-state actors. Further on, the Strategy mentions organized crime, which "often runs parallel with terrorism, regarding both actors and methods",[7] also noting that economic and environmental factors "can provide a breeding ground for other major threats".[8] A major achievement of the Maastricht Strategy lies in the fact that it does not simply refer to "hard" factors such as terrorism and organized crime, but also points to practices of "discrimination and intolerance" that can "threaten the security of individuals and may give rise to wider-scale conflict and violence".[9] The document thus links soft and hard security factors and shows how seemingly soft factors can result in very hard consequences. Although the Strategy does not systematically differentiate between "threats" and "challenges", the "mobility of migrant populations" is characterized as a potential challenge and not as a threat like all the other factors. "Threats of a politico-military nature" are only partially identified as transnational "armed threats posed by terrorists and other criminal groups", while the mention of "destabilizing accumulations of conventional weaponry"[10] points to the traditional inter-state level of conflict. Possible relations between these two dimensions are not discussed.

On the whole, the analytical section of the 2003 Maastricht Strategy tends to link the term "transnational" with the concepts of "threat" and "challenge". By making this association, it restricts its analysis of the transnational agenda to malign phenomena and actors, losing sight of the fact that the term "transnational" is neutral and also covers benign phenomena and actors such as transnational enterprises and non-governmental organizations (NGOs), which can act to strengthen stability, co-operation, and welfare. As we will see, this analytical reduction leads to a limitation of strategic perspectives.

The second part of the 2003 Maastricht Strategy contains both a general strategic approach and sector-specific strategies. The latter have, meanwhile, been overtaken by more recent and more specific OSCE documents. The following section therefore deals with these newer approaches rather than the relevant parts of the Maastricht Strategy. In general, the Maastricht Strategy "aims to contribute to a more cohesive and effective international system for

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6   Ibid., para. 10.
7   Ibid., para. 11.
8   Ibid., para. 14.
9   Ibid., para. 12.
10   Ibid., para. 15.

responding to global threats and challenges".[11] Key elements of the OSCE's response are the "multidimensional"[12] character of its efforts as well as the Organization's institutions and field operations.[13] While the OSCE provides a "forum for political and security dialogue, for setting consensually based, politically binding norms and principles and for promoting their implementation",[14] the "prime responsibility for providing security for their citizens lies with individual participating States".[15] Thus, the two core elements mentioned in the OSCE's strategic response to transnational threats and challenges are states and international organizations.[16] NGOs are only mentioned in three lines, and their role appears supplementary rather than central: "The OSCE has developed strong substantive interaction with non-governmental organizations whose contributions to the overall efforts of the Organization remain significant. This interaction should be further strengthened."[17] Even in the section on "Addressing threats related to discrimination and intolerance",[18] the mention of civil society and NGOs appears to be more of a statement of intention than a representation of an integral part of the OSCE's strategic approach: "Civil society has an important role to play in this regard, and the OSCE will continue to support and help strengthen civil society organizations."[19] As we will see in the following discussion of sector-specific strategies, this rather casual and non-systematic approach to transnational civil society actors leads to a significant shortening of strategic perspectives in the OSCE's sector-specific approaches to transnational threats and challenges.

Although its strategic section lags behind its analysis, the 2003 Maastricht Strategy represented, at the time of its adoption, a fairly innovative and solid document for dealing with transnational threats and challenges. A decade later, things have changed significantly. Compared to the most recent sector-specific documents produced by the OSCE on anti-terrorism, policing, and combating human trafficking (see below), the strategic approach of the Maastricht Document appears rather raw and undeveloped, although some of its basic messages and strategic orientations are still valid. This only shows the degree to which strategic thinking in the field of transnational threats and challenges has been refined over the last decade. The following sections focus on the OSCE's sector-specific strategies in the fields of counter-terrorism, policing, and combating trafficking in human beings.

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11   Ibid., para. 2.
12   Ibid., para. 17.
13   Cf. ibid., para. 20.
14   Ibid., para. 19.
15   Ibid., para. 18.
16   Cf. ibid., paras 52-57.
17   Ibid., para. 56.
18   Ibid., paras 36-41.
19   Ibid., para. 36.

The OSCE's Sector-Specific Strategies to Address Transnational Threats

The 2011 Vilnius Ministerial Council Meeting was supposed to adopt a number of consolidated OSCE sector-specific strategies related to transnational threats, namely the draft decisions on an "OSCE Strategic Framework for Police-Related Activities", an "OSCE Concept for Combating the Threat of Illicit Drugs and the Diversion of Chemical Precursors", and an "OSCE Consolidated Framework for the Fight against Terrorism". However, this was prevented by deep disagreement on human-dimension issues. After US Secretary of State Hillary Clinton had spent most of her speech on human-dimension issues, including those arising during the Russian Duma elections just days before, the Russian delegation, under Foreign Minister Sergei Lavrov, blocked all human dimension-related decisions. Western delegations, in turn, retaliated by blocking the adoption of the aforementioned draft decisions on transnational threats.[20] However, in the following year, the Irish OSCE Chairmanship succeeded in bringing all three draft decisions through the Permanent Council, followed by an umbrella decision by the 2012 Dublin Ministerial Council Meeting that again endorsed those three decisions. This shows two trends: Disputes over the human dimension and other issues have the capacity to temporarily take hostage and block decisions on transnational threats. Nevertheless, after a while, these decisions are taken, if necessary at a less prominent level. Thus, while disputes on other issues may delay the participating States' co-operation on transnational threats and challenges, they have not been able to derail it completely, at least not for the time being.

The OSCE's Anti-Terrorism Approach

As early as in the 1975 Helsinki Final Act, the participating States committed themselves to "refrain from direct or indirect assistance to terrorist activities, or to subversive or other activities directed towards the violent overthrow of the regime of another participating State".[21] However, this clearly refers to state terrorism or state support for terrorists and not to transnational terrorism as currently understood. In the 1999 Istanbul Document, terrorism in the modern transnational sense is mentioned, but only as one among many security challenges, and not a prominent one: "International terrorism, violent extremism, organized crime and drug trafficking represent growing challenges to security. Whatever its motives, terrorism in all its forms and manifestations is unacceptable."[22] It is only since the 9/11 attacks that counter-

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20   Cf. Wolfgang Zellner, Back to reality: The 2011 Vilnius Ministerial Council meeting, in: *Security and Human Rights* 1/2012, pp. 7-9.
21   Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 141-217, here: p. 146.
22   Organization for Security and Co-operation in Europe, Istanbul Summit 1999, *Istanbul Document 1999*, Istanbul 1999, January 2000/Corr., para. 4.

terrorism has become a key issue in the OSCE. Thus, the 2001 Bucharest Ministerial Council Meeting adopted the "Bucharest Plan of Action for Combating Terrorism"[23] followed by the "OSCE Charter on Preventing and Combating Terrorism"[24] adopted by the 2002 Porto Ministerial Council Meeting, as well as the 2007 "Ministerial Statement on Supporting the United Nations Global Counter-Terrorism Strategy"[25] and the 2007 Ministerial Decision on "Public-Private Partnerships in Countering Terrorism"[26], which was jointly sponsored by the Russian Federation and the US. The substance of these and many other terrorism-related documents is summarized in the "Consolidated Framework for the Fight against Terrorism", which was adopted by OSCE Permanent Council Decision No. 1063 of 7 December 2012, and which lists 53 decisions and documents related to terrorism. In the following, we will refer to this latter document.[27]

According to the 2012 Consolidated Framework, "terrorism remains one of the most significant threats to peace, security and stability".[28] The "OSCE participating States stand united in their resolution to implement effective measures to combat terrorism, in all its forms and manifestations, as a serious crime that has no justification, whatever its motivation or origin may be."[29] The Consolidated Framework thus follows the language of the 1999 Istanbul Document and basic UN documents. It focuses on an "inclusive and co-ordinated approach"[30] to countering terrorism and states "that similar approaches can be used to address terrorism and other transnational threats to security, such as organized crime; the proliferation of weapons of mass destruction; illegal activities endangering cyber security; and illicit trafficking in small arms and light weapons, drugs and human beings".[31] The term "war on terrorism" is not used in OSCE documents. Rather, counter-terrorism is implicitly portrayed as a task for the police and other non-military security services. In its counter-terrorism efforts, the OSCE States "recognize the

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23   The Bucharest Plan of Action for Combating Terrorism, Annex to Decision No. 1, Combating Terrorism, MC(9).DEC/1, in: Organization for Security and Co-operation in Europe, *Ninth Meeting of the Ministerial Council, 3 and 4 December 2001,* MC.DOC/2/01, Bucharest, 4 December 2001, pp. 7-13, here: pp. 8-13.

24   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.

25   Ministerial Statement on Supporting the United Nations Global Counter-Terrorism Strategy, MC.DOC/3/07 of 30 November 2007, in: Organization for Security and Co-operation in Europe, *Fifteenth Meeting of the Ministerial Council, 29 and 30 November 2007,* MC.DOC/1/02, Madrid, 30 November 2007, pp. 6-9.

26   Decision No. 5/07, Public-Private Partnership in Countering Terrorism, MC.DEC/5/07 of 30 November 2007, in: ibid., pp. 23-24.

27   Cf. OSCE Consolidated Framework for the Fight against Terrorism, Annex to OSCE, Permanent Council, *Decision No. 1063, OSCE Consolidated Framework for the Fight against Terrorism*, PC.DEC/1063, 7 December 2012.

28   Ibid., para. 2.
29   Ibid., para. 3.
30   Ibid., para. 6.
31   Ibid., para. 7.

leading role of the United Nations"[32] and "support the UN Global Counter-Terrorism Strategy"[33] of 2006. The UN Global Counter-Terrorism Strategy in turn refers to the *annex* of UN General Assembly Resolution 49/60 of 9 December 1994, the Declaration on Measures to Eliminate International Terrorism, which contains the following definition of terrorism: "Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them".[34] It can therefore be concluded that the OSCE indirectly uses this definition as a basis for its counter-terrorism activities, without adding a definition of its own.

In its counter-terrorism approach, the OSCE distinguishes between "activities to eliminate the conditions conducive to the spread of terrorism" in a broader sense and more practical measures: the "strategic focus areas for OSCE counter-terrorism activities". The first category includes "addressing negative socio-economic factors", "strengthening democratic institutions and the rule of law", "combating intolerance and discrimination" as well as "preventing violent conflicts and promoting peaceful settlement of disputes".[35] Yet although such activities might contribute, indirectly, to eliminating conditions conducive to terrorism, they are not translated into focused work on the part of the OSCE. Hence, though the OSCE does address these areas in a way that is distinct from its counter-terrorism efforts, their mention in this context is largely rhetorical.

The operational items within the OSCE's counter-terrorism approach are far more concrete and focused. They include "promoting the implementation of the international legal framework", including United Nations Security Council Resolution 1540 (2004) on non-proliferation of weapons of mass destruction, "countering violent extremism and radicalization that lead to terrorism", "suppressing the financing of terrorism", "countering use of the Internet for terrorist purposes" as well as "strengthening travel document security".[36] As for the nature of the OSCE's counter-terrorism measures, the Consolidated Framework for the Fight against Terrorism specifies: "Through the holding of conferences and workshops, programmatic activity, training and information-sharing, the OSCE enables the exchange of good practices and lessons learned and customized capacity-building […]".[37] Thus, the

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32   Ibid., para. 8.
33   Ibid., para. 9.
34   Declaration on Measures to Eliminate International Terrorism, Annex to United Nations, General Assembly, *Resolution 49/60, Measures to eliminate international* terrorism, A/RES/49/60, 9 December 1994, Article I (3).
35   *OSCE Consolidated Framework for the Fight against Terrorism*, cited above (Note 27), paras 15, 17.
36   Ibid., para. 17.
37   Ibid., para. 13.

measures envisioned aim primarily at disseminating and inculcating norms and strengthening capacities in states where they are comparatively weak.

Information on the implementation of the OSCE's counter-terrorism projects can be found in several reports, most concisely in the Secretary General's Annual Report on Police-Related Activities.[38] This is a further indication that counter-terrorism is primarily perceived within the OSCE as a police-related task. As the 2011 Report shows, the projects implemented mirror almost perfectly the focus foreseen in the Consolidated Framework, para. 17. Accordingly, the focus in Kyrgyzstan, Tajikistan, and Uzbekistan is on projects concerning travel document security, while questions of violent extremism and radicalization are addressed in terms of community policing, the most prominent target group being women.[39] In addition, the OSCE Forum for Security Co-operation (FSC) regularly addresses terrorism-related questions of arms control, such as the control of small arms and light weapons (SALW) and of man-portable air defence systems (MANPADS).[40]

Issues relating to counter-terrorism are dealt with by the Action against Terrorism Unit (ATU), which was set up in 2002 and is part of the Transnational Threats Department (TNTD). The TNTD was established in 2012, and is led by a seconded Russian official. The ATU has a staff of about ten.

The OSCE's Approach to Policing

As early as the 1999 Charter for European Security, the OSCE participating States pledged that they "[would] work to enhance the OSCE's role in civilian police-related activities",[41] particularly related to police monitoring, police training, and law enforcement. This has been followed by a myriad of more detailed decisions, the most prominent being the decision of the 2001 Bucharest Ministerial Council Meeting on "Police-Related Activities",[42] the 2001 Permanent Council Decision on the "Establishment of the Seconded Post of Senior Police Adviser in the OSCE Secretariat",[43] which was the origin of the Strategic Police Matters Unit (SPMU) in the OSCE Secretariat, and the decisions of the 2005 Ljubljana and 2006 Brussels Ministerial Council Meetings on "Combating Transnational Organized Crime",[44] and "Organized

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38 OSCE, *Annual Report of the Secretary General on Police-Related Activities in 2011*, Vienna 2012.

39 Cf. ibid., pp. 24-28.

40 Cf. OSCE, The Secretary General, *OSCE Annual Report on OSCE Activities 2011*, Vienna 2012, pp. 33-34.

41 *Istanbul Document 1999*, cited above (Note 22), here: para. 44.

42 Decision No. 9, Police-Related Activities, MC(9).DEC/9, in: Organization for Security and Co-operation in Europe, *Ninth Meeting of the Ministerial Council*, cited above (Note 23).

43 OSCE, Permanent Council, *Decision No. 448, Establishment of the Seconded Post of Senior Police Adviser in the OSCE Secretariat*, PC.DEC/448, 4 December 2001.

44 Decision No. 3/05, Combating Transnational Organized Crime, MC.DEC/3/05 of 6 December 2005, in: Organization for Security and Co-operation in Europe, *Thirteenth*

Crime",[45] respectively. The substance of these and other police-related decisions is summarized in the 2012 "OSCE Strategic Framework for Police-Related Activities", adopted by OSCE Permanent Council Decision No. 1049, which describes the OSCE's role in policing and lists the priority topics of the OSCE's police-related work, and contains an annex of 31 police-related decisions.[46]

Despite this wealth of decisions, the OSCE does not have a basic document that spells out the specific norms of an OSCE approach to policing beyond general principles such as "the rule of law, respect for human rights and fundamental freedoms" contained in the 2012 Strategic Framework.[47] Because the style of policing in a given society is closely related to the type of political regime that exists there (democratic vs. [semi-]authoritarian), and given that the OSCE only began to become involved in policing at a time when agreement on human dimension issues had already become very difficult, this is not particularly surprising. This normative gap is partially filled by a series of handbooks published by the OSCE Senior Police Adviser, particularly the "Guidebook on Democratic Policing".[48] The guidebook establishes "Key Principles of Democratic Policing", including "Objectives of Democratic Policing", "Upholding the Rule of Law", "Police Ethics and Human Rights", "Police Accountability and Transparency" and "Police Organization and Management Issues".[49] It was not simply written by the Senior Police Adviser, but was also thoroughly discussed by a 38-strong working group representing OSCE participating States, institutions, and field operations. Thus, as it was impossible to elaborate and adopt norms on democratic policing at the political level, these tasks were delegated to an epistemic community, which was able to agree on a set of principles. Formally, these principles do not belong to the OSCE's normative *acquis*. In practical terms, however, the "Guidebook on Democratic Policing" frequently serves as a source of legitimacy. As a consequence, there has been a kind of norm-setting on OSCE policing, though at a level less binding than official OSCE decisions.

Against this background, the Strategic Framework for Police-Related Activities limits itself to describing the role of the OSCE and the added value it can provide to police-related activities in a pragmatic manner: "The OSCE

Meeting of the Ministerial Council, 5 and 6 December, Ljubljana, 6 December 2005, pp. 22-23.

45   Decision No. 5, Organized Crime, MC.DEC/5/06 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. 20-23.

46   Cf. OSCE Strategic Framework for Police-Related Activities, Annex to OSCE, Permanent Council, *Decision No. 1049, OSCE Strategic Framework for Police-Related Activities*, PC.DEC/1049, 26 July 2012.

47   Ibid., para. 10.

48   Cf. OSCE, *Guidebook on Democratic Policing, by the Senior Police Adviser to the OSCE Secretary General*, Vienna 2008 (second edition).

49   Cf. ibid., pp. 9-10.

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has realized concrete achievements in the area of capacity-building, such as the delivery of police training; the development of strategic planning capacities; the building of law enforcement capacities; the creation of transparent, effective and efficient police human resources management systems; and the development of police accountability structures."[50] Priority topics are "general police development and reform", and "threats posed by criminal activity" including organized crime, terrorism, illicit drugs, trafficking in human beings, and cyber crime.[51]

The content of the Secretary General's 2011 report on police-related activities follows almost precisely this schema. One of the largest current OSCE police reform projects is the "Community Security Initiative in Kyrgyzstan",[52] an effort to restructure the Kyrgyz police following the 2010 crisis. Other OSCE police reform efforts have been carried out in Tajikistan and Uzbekistan.[53] The regional focus of the OSCE's police reform activities has thus also shifted from South-eastern Europe to Central Asia. In the early 2000s, the OSCE implemented large projects for the creation of multi-ethnic police forces in Kosovo, South Serbia, and Macedonia.[54] However, critics bemoan the fact that, as David Lewis puts it, the "OSCE's experience in policing in the Balkans was an inadequate basis for engagement in policing in Central Asia. Security sector reform in authoritarian or semi-authoritarian states needs to be approached in a completely different way to security sector reform in countries in transition, or in post-conflict environments, such as Kosovo."[55] Lewis goes into more detail, commenting critically that "police assistance in authoritarian states such as Uzbekistan has done nothing to improve the performance of the police, but has undermined the reputation of the OSCE […] In Kyrgyzstan, the OSCE failed to respond to concerns about the drift towards highly authoritarian governance under President Bakiev […]In Tajikistan, the willingness of the Tajik authorities to begin discussions about police reform […] has not yet been accompanied by any significant change in police behaviour."[56] While I am unable to verify the facts behind these statements in detail, it seems that they reflect at least one important aspect of the situation. Police reform is always a fundamentally political matter. And hence, succeeding in terms of democratizing police services or making them more sensitive to citizens' human and political rights requires positive

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50 *OSCE Strategic Framework for Police-Related Activities*, cited above (Note 46), para. 8.
51 Cf. ibid., paras 14-19.
52 Cf. *Annual Report of the Secretary General on Police-Related Activities in 2011*, cited above (Note 40), here: pp. 109-112.
53 Cf. David Lewis, Security Sector Reform in authoritarian regimes: The OSCE experience of police assistance programming in Central Asia, in: *Security and Human Rights*, 2/2011, pp. 103-117, here: pp. 108-117.
54 Cf. Thorsten Stodiek, The OSCE and the Creation of Multi-Ethnic Police Forces in the Balkans, CORE Working Paper 14, Hamburg 2006; Thorsten Stodiek/Wolfgang Zellner, Multiethnische Polizeien auf dem Balkan [Multi-Ethnic Police Forces in the Balkans], in: *Die Friedens-Warte* 1-2/2005, pp. 83-111.
55 David Lewis, cited above (Note 53), p. 117.
56 Ibid.

changes in the political regimes. However, with the partial exception of Kyrgyzstan, such changes have not taken place – quite the reverse.

The OSCE's larger police reform projects are amplified by a myriad of workshops and seminars on issues such as "Contemporary Police Training: E-Learning", "International Co-operation in Criminal Matters for Legal Experts in Central Asia", "Regional Workshop on Computer Forensics and Digital Evidence for Police, Prosecutors and Judges in Southeastern Europe", and "Leveraging Anti-Money Laundering Regimes to Combat Trafficking in Human Beings".[57] In addition, the OSCE convenes an "Annual Police Experts Meeting". Workshops in this field are almost invariably organized in collaboration with other international organizations and/or the OSCE's field operations, whose police or law enforcement departments are sometimes better staffed than the SPMU, with its team of ten. Training courses offered by OSCE field operations have been known to last several weeks. Training activities are complemented by the guidebooks published by the Senior Police Adviser, including the aforementioned "Guidebook on Democratic Policing", as well as "Good Practices in Building Police-Public Partnerships", "Good Practices in Basic Police Training – Curricula Aspects",[58] "Police and Roma and Sinti: Good Practices in Building Trust and Understanding",[59] and, most recently, "Police Reform within the Framework of Criminal Justice System Reform".[60] In 2006, the OSCE High Commissioner on National Minorities (HCNM) contributed a set of "Recommendations on Policing in Multi-Ethnic Societies".[61] In addition, the OSCE maintains the Policing OnLine Information System (POLIS) Digital Library – a digitized document collection covering many aspects of policing.

Overall, the OSCE's focus in the area of policing lies on the elaboration of norms, standards, and best practices that are codified in guidebooks and handbooks and then disseminated and inculcated through workshops and conferences. It is interesting to note that most of these norms and standards have been developed below the threshold of the official normative *acquis* of the OSCE as enshrined in Permanent Council, Ministerial Council, or Summit decisions. Nevertheless, these "unofficial" norms and standards are frequently applied throughout the OSCE area and can thus be seen to be making a real impact. Although these kinds of norms are substantially less binding

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57   These examples were drawn from the *Annual Report of the Secretary General on Police-Related Activities in 2011*, cited above (Note 38), pp. 17-20.

58   OSCE, *Guidebook on Democratic Policing, by the Senior Police Adviser to the OSCE Secretary General*, cited above (Note 48); *Good Practices in Building Police-Public Partnerships, by the Senior Police Adviser to the OSCE Secretary General*, Vienna 2008; *Good Practices in Basic Police Training – Curricula Aspects, by the Senior Police Adviser to the OSCE Secretary General*, Vienna 2008.

59   OSCE ODIHR, *Police and Roma and Sinti: Good Practices in Building Trust and Understanding*, Vienna 2010.

60   OSCE, *Police Reform within the Framework of Criminal Justice System Reform*, Vienna 2013.

61   OSCE, High Commissioner on National Minorities, *Recommendations on Policing in Multi-Ethnic Societies*, The Hague 2006.

than official OSCE commitments adopted by the 57 states, they represent an interesting way to bypass the current standstill in all kinds of norm-setting linked to democracy, the rule of law, and other human dimension issues. This assessment is also supported by the fact that such norms, particularly the "Guidebook on Democratic Policing", are not simply decreed by some OSCE executive official, but are elaborated by working groups of 35-40 officials representing the most relevant OSCE participating States. This can be considered as a means of mirroring the usual OSCE discussion and decision-making process on a smaller and less formal scale.

The OSCE Approach to Combating Trafficking in Human Beings

The first CSCE/OSCE document that explicitly addressed trafficking in human beings was the 1991 Moscow Document.[62] Here we read that the participating States "seek to eliminate all forms of violence against women, and all forms of traffic in women and exploitation of prostitution of women including by ensuring adequate legal prohibitions against such acts and other appropriate measures".[63] Interestingly, the 1990 Copenhagen Document did not mention trafficking in human beings at all.[64] While the wording used in the 1991 Moscow Document referred solely to trafficking in women, the 1999 Charter for European Security was the first OSCE document that used the language that remains current. Here, the participating States decided to "undertake measures to eliminate all forms of discrimination against women, and to end violence against women and children as well as sexual exploitation and all forms of trafficking in human beings".[65] The development of a broader set of policies only started in 2000 with the adoption of a "Decision on Enhancing the OSCE's Efforts to combat Trafficking in Human Beings"[66] by the Vienna Ministerial Council Meeting, followed by a modest decision of the 2001 Bucharest Ministerial Council Meeting[67] and the "Declaration on Trafficking in Human Beings"[68] adopted by the 2002 Porto Ministerial Council Meeting. However, the key documents that continue to guide the OSCE's

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62 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 21), pp. 605-629.
63 Ibid., para. 40.7.
64 Cf. 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 21), pp. 439-465.
65 Cf. *Istanbul Document 1999*, cited above (Note 22), para. 24.
66 Decision on Enhancing the OSCE's Efforts to Combat Trafficking in Human Beings, MC(8).DEC/1, 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, pp. 7-8.
67 Decision No. 6 by the Ministerial Council, MC(9).DEC/6, in: Organization for Security and Co-operation in Europe, *Ninth Meeting of the Ministerial Council*, cited above (Note 23), p. 30.
68 Declaration on Trafficking in Human Beings, in: Organization for Security and Co-operation in Europe, *Tenth Meeting of the Ministerial Council*, cited above (Note 24), pp. 15-17.

efforts to combat trafficking in human beings to this day are the "OSCE Action Plan to Combat Trafficking in Human Beings", which was adopted by the Permanent Council on 24 July 2003,[69] and the "Addendum to the OSCE Action Plan" adopted by the Permanent Council on 7 July 2005.[70] In the ten years since then, this has only been followed by decisions on details, such as the decision on "Combating Trafficking in Human Beings for Labour Exploitation"[71] adopted by the 2007 Madrid Ministerial Council Meeting, or decisions that confirmed the existing *acquis* in this field, such as the "Ministerial Declaration on Combating all Forms of Human Trafficking"[72] adopted by the 2011 Vilnius Ministerial Council Meeting.

In contrast to its approach in almost every other area in the field of transnational threats and beyond, the OSCE does provide a definition of trafficking in human beings, which it borrowed from the 2000 "United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children": "Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."[73] The existence of an agreed definition points to the fact that trafficking in human beings is one of the least disputed issues in the OSCE. The 2011 Vilnius Ministerial Council Meeting, which was unable to agree on almost anything, at least agreed on a decision on combating human trafficking.

In the 2002 Porto Declaration on Trafficking in Human Beings, trafficking in human beings is qualified as a "modern form of slavery" that constitutes a "rapidly expanding area of transnational organized crime" that "represents a dangerous threat to security in the OSCE area and beyond".[74]

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69   OSCE Action Plan to Combat Trafficking in Human Beings, Annex to OSCE, Permanent Council, *Decision No. 557, OSCE Action Plan to Combat Trafficking in Human Beings*, PC.DEC/557, 24 July 2003.
70   OSCE, Permanent Council, *Decision No. 685, Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: Addressing the Special Needs of Child Victims of Trafficking for Protection and Assistance*, PC.DEC/685, 7 July 2005.
71   Decision No. 8/07, Combating Trafficking in Human Beings for Labour Exploitation, MC.DEC/8/07 of 30 November 2007, in: Organization for Security and Co-operation in Europe, *Fifteenth Meeting of the Ministerial Council*, cited above (Note 25), pp. 29-31.
72   Ministerial Declaration on Combating all Forms of Human Trafficking, MC.DOC/1/11/Corr.1 of 7 December 2011, in: Organization for Security and Co-operation in Europe, *Eighteenth Meeting of the Ministerial Council, 6 and 7 December 2011*, Vilnius, 7 December 2011, pp. 45-47.
73   Cited in: *OSCE Action Plan to Combat Trafficking in Human Beings*, cited above (Note 69), pp. 1-2.
74   *Declaration on Trafficking in Human Beings*, cited above (Note 68), Section I.

The root causes of trafficking in human beings are seen in "economic and social inequalities and disadvantages" and in the fact "that, in countries of destination, demand for the activities of persons trafficked for the purposes of sexual exploitation, forced labour, slavery or other practices similar to slavery is an integral part in trafficking in human beings".[75] This prominent mention of countries of destination makes trafficking in human beings one of the few fields of OSCE activity where "Western" and "Eastern" countries are dealt with in an equal manner. The 2003 Action Plan to Combat Trafficking in Human Beings is a systematic 18-page document that contains chapters on "Investigation, law enforcement and prosecution", "Prevention of trafficking in human beings", "Protection and assistance" as well as a "Follow-up and co-ordinating mechanism".[76] Objectives are defined in each of these areas. For instance, "Investigation, law enforcement and prosecution" covers criminalization, law enforcement response, law enforcement co-operation and information exchange, assistance and protection of witnesses and victims, training, and border measures, with additional specific measures to come. The Action Plan is thus one of the OSCE's most comprehensive and systematic documents. At the same time, it shows what quality OSCE documents can achieve if there are no major disagreements.

The 2003 Action Plan created the "Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings". The current incumbent is the Italian judge, Maria Grazia Giammarinaro. The Co-ordinator's mandate involves assisting the "OSCE participating States in the implementation of commitments" by, among other things, raising "the public and political profile of the combat against trafficking in human beings", giving advice to the participating States on related legislative, judicial, and executive matters, and ensuring co-ordination of OSCE efforts in combating trafficking in human beings.[77] The Office of the Special Representative currently has about ten members of staff. The Special Representative issues publications such as the "Reference Guide for Anti-Trafficking Legislative Review"[78] and "Building the Capacity of Roma Communities to Prevent Trafficking in Human Beings",[79] organizes conferences such as a "Seminar on Cooperation to Prevent Trafficking in Human Beings in the Mediterranean Region", which was held in February 2013 in Rome, and conducts country visits. In 2012, visits were carried out in Azerbaijan, Bosnia and Herzegovina, Ireland, and Portugal. To improve international co-ordination, the first Special Representative, Helga Konrad, initiated the Alliance Against Traf-

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75   Ibid., Section II.
76   *OSCE Action Plan to Combat Trafficking in Human Beings*, cited above (Note 69).
77   OSCE Secretariat, Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Mandate*, at: http://www.osce.org/cthb/43466.
78   Angelika Kartusch, *Reference Guide for Anti-Trafficking Legislative Review*, Warsaw 2001.
79   OSCE ODIHR, *Building the Capacity of Roma Communities to Prevent Trafficking in Human Beings*, Warsaw 2007.

ficking in Persons, a platform of 29 international organizations and NGOs: from the European Commission, the Council of Europe, and several UN organizations, to Amnesty International and Terre des Hommes. Thanks to this Alliance, combating human trafficking is the only OSCE field of activity within the larger area of addressing transnational threats and challenges in which transnational NGOs are included in a systematic manner. The Alliance Against Trafficking in Persons is also innovative in the way it links and integrates the efforts of international and transnational actors. As a result, combating trafficking in human beings is the only OSCE field of activity where a transnational threat is addressed by including benign transnational actors.

Within the OSCE, the Special Representative co-operates primarily with the Office for Democratic Institutions and Human Rights (ODIHR) and the OSCE field operations, all of which run a counter-trafficking focal point, as well as with the Strategic Police Matters Unit. It is no exaggeration to say that the OSCE is, in its area of application, a leading force in the co-ordination of combating trafficking in human beings.

OSCE Regime-building in Addressing Transnational Threats and Challenges

Since 2000, the OSCE has dealt with the key transnational threats and challenges by means of "strategic frameworks", "consolidated frameworks", "action plans", and other comprehensive strategy documents, and has developed a range of implementation instruments. The clear progress made in this area stands in stark contrast to the almost universally shared perception of a "deep crisis of the OSCE", which is characterized as an organization that cannot agree on anything, has difficulties taking action, and is therefore losing relevance. This apparent contradiction requires an explanation.

In most cases, OSCE strategy documents in the field of transnational threats and challenges combine the formulation of sector-specific norms, rules, procedures, and working routines with sector-specific objectives, strategies, and practical implementation measures. This can be considered as a process of issue-specific regime-building. The norm-setting consists less of the introduction of new norms than of the adaptation of existing ones to the needs of specific issues. Two developments within this process are striking. First, the normative coverage and depth, and thus the regime density, are unevenly distributed among the individual issue areas. While the field of anti-trafficking is characterized by full normative coverage, including a definition of human trafficking (something that is rare in international organizations), the field of policing lacks any substantive norms, at least at the level of formal decisions adopted by the OSCE's participating States. Second, this normative deficit is at least partially compensated for by a number of police-related guidebooks that do not contain official OSCE commitments, but rather sets of norms, rules, and best practices that exert a degree of normative

guidance by way of their very existence and the way in which they were drafted. A possible explanation for this uneven normative coverage of different subfields of transnational threats and challenges may be the following: The closer a specific transnational threat sub-area is to the locus of state power, the more difficult it is to achieve some kind of normative regulation, and vice versa. The striking differences in normative coverage for anti-trafficking, which is seen as a general human dimension issue concerning all states in an equal manner, and policing, which is an issue at the very heart of state power, are a good example.

The OSCE's implementation strategy in the field of transnational threats (but not only there) aims at teaching, inculcating, and putting into practice the adopted norms and procedures through handbooks, workshops, conferences, and training courses. Since implementation is fundamentally seen as the task of the participating States themselves, the OSCE limits itself to the role of an assisting and facilitating institution that does not take on the implementation of large sets of measures. That explains the comparatively small size of OSCE projects and of the units and departments dealing with transnational threats.

In its co-operation strategy, the OSCE aims primarily at "international" co-operation, i.e. co-operation with other international organizations, and particularly the UN (and the UN family). The OSCE understands itself as a "regional arrangement in the sense of Chapter VIII of the Charter of the United Nations".[80] This declaration finds practical expression in the fact that almost all OSCE documents include a substantive reference to the United Nations, be it by taking over a definition, such as the one on human trafficking, by making use of comprehensive UN documents, or by an orientation towards the ratification and implementation of global UN instruments by the OSCE participating States, as in the case of the UN anti-terror conventions. This orientation towards the UN is also expressed by the frequent co-operation of OSCE bodies with specialized UN institutions. Transnational co-operation in the sense of co-operation with transnational NGOs is less relevant. But here, too, the OSCEs activities exhibit significant differentiation. While areas that are relatively distant from state power, such as anti-trafficking, show a higher level of transnational co-operation, co-operation on issues that are closer to the state's key powers, such as policing, is almost completely international in character.

Altogether, the OSCE shows a remarkable convening, agenda-setting and, in general, regime-building power in the area of transnational threats and challenges. This means that the Organization has the ability to bring the relevant stakeholders together on a given set of issues, to initiate and conclude discussion processes on objectives, norms, rules, procedures, and working

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80   CSCE Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, Helsinki Summit Declaration, Section 25, in: Bloed (ed.), cited above (Note 21), pp. 701-777, here: p. 707.

instruments, and, to some extent, to implement this sector-specific regime. The stakeholders in this process are states, international organizations and, in specific areas, transnational and international NGOs. How is the OSCE able to exercise this kind of convening power despite its frequently cited crisis? The following factors may contribute to an explanation.

First, despite all disputes over and contradictions related to power and normative questions, almost all participating States share a number of parallel interests not only, but primarily, in the field of transnational threats and challenges. The political experience of recent years has shown that differences regarding norms and power can delay co-operation on transnational threats and challenges, but cannot stop it. The adoption in 2012 of a number of decisions on transnational threats by the Permanent Council, after these decisions had been taken hostage at the 2011 Vilnius Ministerial Council Meeting, is a striking example. The ongoing co-operation between Russia and the NATO states on Afghanistan despite an extremely wide range of disputed issues is another one.

Second, despite and perhaps even because of the OSCE's permanent crisis, its institutions have developed a remarkable degree of resilience. The three OSCE institutions – ODIHR, the HCNM, and the Representative for the Freedom of the Media (RFOM) – have successfully defended their autonomy, while the Secretariat and the Secretary General, who, for a long time, represented not much more than the "chief administrative officer", providing administrative support for OSCE Chairmanships, have also gained a significant degree of political room to manoeuvre. This can be illustrated in terms of both the development of the OSCE budget and the Secretary General's own political projects. In the eleven years from 2001 to 2012, the three OSCE institutions plus the Secretariat increased their relative share of the OSCE's Unified Budget from 14.08 per cent to 40.00 per cent, or, in nominal terms, from 29.458 million euros to 59.804 million euros. This doubling of budgetary funds received by the institutions is all the more remarkable since the OSCE Unified Budget as a whole decreased in the same period from 209.329 million euros to 148.055 million euros, i.e. by about one quarter.[81] At the level of politics, Secretary General Lamberto Zannier, who entered office in July 2011, introduced the OSCE Security Days, high-level events for practitioners and experts from think tanks, civil society, and the media to discuss prominent focal areas of the Organization's work. The Secretary General has thereby successfully strengthened his capacity to take political initiatives.

Third, for a range of issues, the OSCE is better placed politically and in terms of legitimacy and has better access to relevant stakeholders than do other international organizations. This applies completely to transnational threats and challenges and partially to conflict regulation. In regional terms, it applies particularly to Central Asia, and, to a lesser degree, to the South Cau-

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81   Author's own calculations, based on the Annual Reports of the OSCE Secretary General from 2001-2012, Vienna 2002-2013.

casus and Eastern Europe. A good example is the 2010 Kyrgyzstan crisis, where the UN, the EU, and NATO refrained from any action, but encouraged the OSCE to get involved.

Fourth, the comparative advantages of the OSCE in terms of legitimacy and access result from the Organization's inclusive character. While in some cases it is more difficult for exclusive international organizations such as the EU and NATO to gain access and to muster sufficient legitimacy, the OSCE, with its broad membership, enjoys a structural advantage. It is, however, one that is balanced by other disadvantages, for example by the fact that the OSCE is not a donor organization.

Fifth, and finally, its comprehensive policy approach combined with its smallness and flexibility make it easier for the OSCE to address new fields as they arise.

It is important to note that the evaluation of the performance of an (international) organization must be based on the entirety of its activities and its output. It is not sufficient to refer to more prominent or more easily accessible levels such as political decision-making. So-called "routine functions" of an organization also have to be taken into account. For the OSCE, this does not mean that there is no crisis in areas such as political decision-making, particularly on questions relating to power and norm-setting. However, there is a brighter side of the OSCE's performance. Besides the many activities of ODIHR, the HCNM, and the RFOM, this particularly involves the Organization's activities in the field of transnational threats and challenges.