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Election Observation as a Point of Contention between the Russian Federation and ODIHR

The history of election observation by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the political evolution of post-Soviet Russia have been interconnected since the very beginning. The second ever ODIHR long-term election observation mission was sent to the Russian Federation in 1996,¹ though election-day observation had already been conducted in 1993 and 1995 by the CSCE/OSCE Parliamentary Assembly, with some ODIHR involvement.² Meanwhile, post-Soviet Russia took the first steps of its democratic transition. The earliest reports released by ODIHR praised the positive developments of Russian democracy. After 2000, following internal and international developments, Moscow has re-established a more assertive foreign policy, which entails a less idealistic and more pragmatic view of international co-operation. At the same time, while refining its long-term observation methodology, ODIHR started to express its concern at the shortcomings of Russian electoral processes and made clear that “as time progresses, lack of experience is becoming increasingly less valid as an argument to explain election irregularities in OSCE participating States”.³ Since then, Russia has started to perceive election observation as a potential form of interference in its internal affairs.

This contribution focuses on the last decade of the debate on ODIHR election observation between the Russian Federation, ODIHR, and other OSCE participating States. It sheds light on Moscow’s and ODIHR’s goals and the strategies both use in managing their relationship. Finally, it aims to draw some conclusions concerning possible developments, taking into account the wider context of Russia’s participation in the OSCE as a whole.

Note: The opinions expressed in this article are the author's own and do not necessarily reflect the view of the OSCE/ODIHR.

- 1 Cf. OSCE/ODIHR, *Report on the Election. International Observer Mission. Election of President of the Russian Federation 16th June 1996 and 3rd July 1996*, Warsaw, 12 July 1996. All information and reports of ODIHR election observation activities in Russia are available at: <http://www.osce.org/odihr/elections/russia>.
- 2 Cf. Peter Emery, OSCE Parliamentary Assembly Election Monitoring: The 1995 Russian Elections, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1995/1996*, Baden-Baden 1997, pp. 211-224. See also: OSCE Parliamentary Assembly, *The First Decade of OSCE PA Election Observation 1993-2003*, at: <http://www.oscepa.org/election-observation>.
- 3 OSCE/ODIHR, *Challenges to OSCE election commitments*, at: <http://www.osce.org/odihr/elections/43736>.

Russia's Goals and Strategy

The focus of Russian discontent over election observation is essentially political in nature, as it involves the interpretation of fundamental CSCE/OSCE political documents. In fact, Moscow and other Commonwealth of Independent States (CIS) capitals are no longer willing to abide by the spirit of key OSCE commitments, endorsed in the past by Soviet and Russian leaders. Hence, their goal is to promote a very strict interpretation of ODIHR's mandate, if not to call into question key human dimension commitments stated mainly in the 1990 Copenhagen Document, whose implementation is monitored by ODIHR. Moscow has contested the legitimacy of ODIHR election observation on both legal and technical grounds, and took action aimed at limiting its effectiveness and autonomy. Russian and CIS representatives have restated their claims in a number of documents and statements over the last ten years.⁴ At the same time, while rejecting the spirit of the Copenhagen Document, they did not deny their adherence to the letter of the agreement.

From the legal point of view, Russia pointed out that CSCE/OSCE documents are only *politically binding* and that the Organization would be strengthened if its normative framework evolved into fully-fledged *legally binding* international treaties. Furthermore, it questioned the legal significance of ODIHR's methodology and attacked the practices the Office has established over the years to fulfil its mandate on the basis of key CSCE/OSCE documents.⁵ Moscow sees ODIHR not as an independent watchdog,

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- 4 Cf. Delegations to the OSCE of Armenia/Republic of Belarus/Republic of Kazakhstan/Kyrgyz Republic/Russian Federation/Republic of Tajikistan/Republic of Uzbekistan, *Basic Principles for the Organization of ODIHR Observation of National Elections*, annex to: Draft Decision on OSCE/ODIHR Observation of National Elections. PC.DEL/898/07, 18 September 2007, hereinafter: *Basic Principles*; Armenia/Belarus/Kazakhstan/ Kyrgyzstan/Russian Federation/Tajikistan/Ukraine/Uzbekistan, *Appeal of the CIS Member States to the OSCE Partners, Astana 15 September 2004*, at: http://www.mid.ru/bdomp/brp_4.nsf/e78a48070f128a7b43256999005bcbb3/70f610ccd5b876ccc3256f100043db72; Belarus/Kazakhstan/Kyrgyzstan/Moldova/Russian Federation/Tajikistan/Ukraine/Uzbekistan, *Statement by CIS Member Countries on the State of Affairs in the OSCE*, Moscow 3 July 2004, at: <http://archive.kremlin.ru/eng/text/docs/2004/07/74223.shtml>.
- 5 *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, Copenhagen 1990, at: <http://www.osce.org/de/odihr/elections/14304>; *Charter of Paris for a New Europe*, Paris 1990, at: <http://www.osce.org/node/39516>; *Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE*, Moscow 1991, at: <http://www.osce.org/odihr/elections/14310>; Prague Document on Further Development of CSCE Institutions and Structures, in: *Second Meeting of the Council*, Prague 1992, pp. 13-21, at: <http://www.osce.org/mc/40270>; CSCE, 1992 Summit, *CSCE Helsinki Document 1992: The Challenges of Change*, Helsinki, 9-10 July 1992, at: <http://www.osce.org/mc/39530>; CSCE, *Budapest Document 1994: Towards a Genuine Partnership in a New Era*, Budapest, 6 December 1994, at: <http://www.osce.org/mc/39554>; Charter for European Security, Istanbul 1999, in: OSCE, Istanbul Summit 1999, *Istanbul Document 1999*, at: <http://www.osce.org/mc/17502>; OSCE, Ministerial Council, Brussels 2006, *Decision No. 19/06, Strengthening the Effectiveness of the OSCE*, MC.DEC/19/06, 5 December 2006, at: <http://www.osce.org/mc/23209> (hereinafter: *MC Decision No. 19/06*), OSCE, 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/node/74985>.

but as an instrument for technical election assistance along lines agreed between ODIHR and the host country. Russia and like-minded OSCE participating States have therefore put forward several reform proposals aimed at subordinating key aspects of ODIHR's election observation activity to the political consensus at the intergovernmental level. These include the following: Election Observation Missions (EOMs) should be sent to all participating States in the same format and with the same number of observers; the appointment of EOM staff and the publication of reports should be agreed by the host country; public statements by the missions should be avoided before the publication of the report; and technical recommendations should be made only if requested by the host State.⁶ Since Russia's ultimate goal was not to reinforce but to renegotiate core principles of the Copenhagen Document and to submit ODIHR's autonomy to political consensus, the majority of participating States rejected this approach.

As a consequence, the Russian challenge moved to technical issues, where it targeted particular aspects of ODIHR's early methodology that, it was claimed, resulted in "double standards", including the concentration of EOMs "East of Vienna", the fact that the majority of observers came from "West of Vienna", the disenfranchisement of Russian non-citizens in the Baltic Republics, and alleged double standards in assessing electoral processes in NATO-oriented and non-NATO-oriented newly independent States. As shown below, ODIHR has taken many steps to meet Moscow's criticisms, yet without conceding on issues of substance. On the contrary, ODIHR turned this criticism into an opportunity to improve its efficiency and autonomy. As a result, however, these arrangements did not reduce Russia's aversion to election observation and its willingness to curb ODIHR's independence.

Russian concerns about election observation increased after the so-called colour revolutions, when contested elections brought about changes of regime unfavourable to Moscow in Georgia (2003), Ukraine (2004), and Kyrgyzstan (2005).

From the perspective of both Western and Russian stakeholders, these events showed that election observation is a very effective tool for mobilizing civil society and opposition forces against electoral frauds, thus destabilizing political regimes.⁷ It would be misleading, however, to link ODIHR election observation with political upheavals. Its reports pinpointed facts, but they were neither deliberately designed nor able to provoke public anger by themselves. Nevertheless, following colour revolutions and ODIHR's highly critical assessment of Russian elections in 2003/2004, Russian criticism of the Warsaw-based institution became harsher. Not only did allegations of

6 Cf. *Basic Principles*, cited above (Note 4).

7 Cf. Radio Free Europe/Radio Liberty, *Putin aide sees "Color Revolutions" as threat to Russian sovereignty*, RFE/RL Newswire, 6 March 2006, at: <http://www.rferl.org/content/article/1143587.html>; US Agency for International Development (USAID), *Rising Democracy*, September 2005, p. 9, at: http://pdf.usaid.gov/pdf_docs/PDACF571.pdf.

“double standards” and calls for drastic reforms intensify, Moscow also tried to prevent ODIHR from carrying out its activity.

For instance, Russia and other CIS countries (Belarus,⁸ Uzbekistan⁹) placed concrete barriers in the way of election observation, including late and limited invitations to observe and late visa issuance to observers. In 2007 and 2008, the Russian Central Election Commission invited only 70 observers, just one month before the elections, thus preventing ODIHR from deploying a meaningful long-term observation mission. Further delays in processing visas for observers ultimately resulted in ODIHR’s decision not to send a mission to observe Russian parliamentary and presidential elections.¹⁰ Russia reacted by reaffirming that its only obligation under the Copenhagen Document “is to invite foreign observers for elections” and that any other “attempt to compel member States to obey the rules under which no one has ever signed,” such as a timely and unconditional invitation to the Office, “looks obviously absurd”.¹¹

An additional factor with a major negative impact on ODIHR’s work is that, since 2005, the approval of the annual budget has been matter of often heated negotiations within the OSCE Permanent Council, and it has been approved only after mutual concessions, usually well after the beginning of the new financial year. Furthermore, Moscow refuses to soften its zero nominal growth policy towards the OSCE’s budget. As a result, the resources available are decreasing in real terms from year to year.¹² Financial restrictions are a tool that Russia can use effectively, and ODIHR – and election observation

8 Cf. Andrei Zagorski, Election Observation in the OSCE Area: Political Challenges, in: Daniel Warner/Vesna Marinkovic (eds.), *OSCE Future Operations and Leadership*, CIG Occasional Paper 2/2008, Geneva 2008, pp. 134-159, here: p. 149.

9 Cf. Robert Mitchell, History and mandate of election observation: the OSCE/ ODIHR experience, in: Hans Schmeets (ed.), *International election observation and assessment of elections*, Statistics Netherlands, The Hague/Heerlen 2011, p. 75; see also: OSCE/ ODIHR, *Limited Election Observation Mission Final Report. Republic of Uzbekistan. Presidential Election. 23 December 2007*, Warsaw 23 April 2008, at: <http://www.osce.org/odihr/elections/uzbekistan/31599>.

10 Cf. OSCE/ODIHR, *ODIHR unable to observe Russian Duma elections*, Press Release, Warsaw, 16 November 2007, at: <http://www.osce.org/odihr/elections/49175>; OSCE/ ODIHR, *OSCE/ODIHR regrets that restrictions force cancellation of election observation mission to Russian Federation*, Press Release, Warsaw 7 February 2008, at: <http://www.osce.org/odihr/elections/49438>.

11 Ministry of Foreign Affairs of the Russian Federation, *Russian MFA Spokesman’s Commentary Regarding Nonparticipation of OSCE ODIHR in Observation of Parliamentary Election in Russia*, Moscow 16 November 2007, at: http://www.mid.ru/bdomp/Brp_4.nsf/arh/D6BABB3CF0917B0FC3257398004EE3D4?OpenDocument; Ministry of Foreign Affairs of the Russian Federation, *MFA Spokesman Mikhail Kamynin Commentary on the Situation Surrounding the Refusal by Office for Democratic Institutions and Human Rights (ODIHR) of the OSCE to Send a Mission to Observe the Elections for the State Duma of the Federal Assembly of the Russian Federation*, Moscow 22 November 2007, at: http://www.mid.ru/bdomp/Brp_4.nsf/arh/41DD22ED09CCE443C325739C003EF458.

12 Cf. Andrei Zagorski, 2009: A Year of Challenges and Missed Opportunities, in: Daniel Warner/Vesna Marinkovic (eds), *The OSCE and a New Security Governance in Europe*, CIG Occasional Paper 3/2009, Geneva 2009, pp. 58-87, here: p. 67.

in particular – is one of its targets. As further detailed below, in the medium term, shortages of funds may force ODIHR to reduce the geographical coverage of its election observation activity, thus fuelling new specious allegations of double standards from the Russian authorities. For this reason, budgetary constraints represent the main danger to the *modus vivendi* between Moscow and ODIHR.

As well as strongly opposing OSCE election observation, in recent years Russia has also taken some steps that are potentially incompatible with its strategy of reducing ODIHR's autonomy and the authority of its election observation findings.

In particular, the Russian Central Election Commission seconds observers on a regular basis to ODIHR missions, and Moscow recently started making full use of the 15 per cent quota of observers each participating State can deploy. By sending observers, Russia may influence the outcome of the observation; however, this decision also implies formal acceptance of ODIHR methodology.

In addition to this, the CIS has created its own election observation system, mainly in order to counter and neutralize ODIHR's assessments. On the one hand, CIS reports are tailored to draw opposite conclusions to ODIHR ones, and to praise the peaceful organization of elections in compliance with national laws and international standards. In general, the differences between CIS and OSCE election observation reflect the Russian proposals for reforming the latter: CIS election monitoring is based on the legally binding obligations set out in the CIS Convention on Standards of Democratic Elections of 2002;¹³ missions are deployed under the control of CIS intergovernmental structures, including for the appointment of Core Teams, and their methodology is regulated by a binding document.¹⁴ On the other hand, however, CIS election observation methodology is very similar to ODIHR's in formal terms, and the principles of the 2002 CIS Convention are largely inspired by the CSCE's Copenhagen Document.¹⁵

Similarly, other Russian initiatives affirm that they are inspired by the same set of obligations on elections and human rights as ODIHR's activity.

13 Cf. European Commission on Democracy through Law (Venice Commission), *Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States*, Chisinau, 7 October 2002, at: http://portales.te.gob.mx/internacional/sites/portales.te.gob.mx.internacional/files/Convention_Standards_of_Democratic_Elections_Electoral_Rights_Freedom_in_the_States_of_Commonwealthto.PDF, hereinafter: *CIS Convention*. The convention has been signed by the presidents of Armenia, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, and Ukraine.

14 Cf. Commonwealth of Independent States, *Polozhenie o Missii nablyudatelei ot SNG na prezidentskikh i parlamentskikh vyborakh, a takzhe referendumakh v gosudarstvakh-uchastnikakh Sodruzhestva Nezavisimyykh Gosudarstv* [Regulations on CIS Observers' Mission to presidential and parliamentary elections, and referendums in the member states of the Commonwealth of Independent States], Minsk, 26 March 2004 (author's translation).

15 Cf. *CIS Convention*, cited above (Note 13).

Internet-based distance monitoring of elections,¹⁶ for example, is promoted as equivalent to ODIHR's observation in terms of thoroughness, with the additional advantage of avoiding the cost of deployment to the country where elections are held. Reports from the Russian Ministry of Foreign Affairs about human and electoral rights violations in the European Union and the United States¹⁷ aim at demonstrating that "the situation [...] is still far from perfect", concluding that "this is in an obvious contradiction with the EU claims of being the model and often the supreme arbiter" on human rights and "with the ambitions of the USA to become a global leader in the protection of democratic values", respectively. By demanding uniform standards in monitoring elections and strictly comparing participating States' legislation and implementation, the Russian government sometimes contradicts its own argument against ODIHR recommendations, namely that "democratic elections can be conducted under a variety of different electoral systems and laws"¹⁸ and that "national and historic traditions"¹⁹ should always be taken into account.

Overall, these actions may have the unintended effect of legitimizing ODIHR's action.²⁰ Russian public opinion, increasingly sensitized about the importance of genuine elections, would easily recognize that the key difference between the two approaches to election monitoring is the independence of the *observer* from the *observed*. Besides, the incoherencies outlined above have made it easier for ODIHR and its supporters in the OSCE Permanent Council to respond to Russian reform proposals.

ODIHR's Mandate and its Implementation

ODIHR's main goal is to "promote [...] democratic election processes through the in-depth observation of elections and conduct [...] election assistance projects that enhance meaningful participatory democracy".²¹ Due to the intergovernmental nature of the OSCE, the follow-up to election-related recommendations largely depends on the interest of participating States in making use of the assistance provided by ODIHR. Therefore, in the absence of

16 Cf. Russian Public Institute of Electoral Law (ROOIP), *Dstantsionnyi monitoring kak forma mezhdunarodnogo nablyudeniya za vyborami* [Distance Monitoring as a form of international election observation], at: http://www.roiip.ru/images/data/gallery/8_5129_Distance_monitoring_011013.pdf.

17 Cf. Ministry of Foreign Affairs of the Russian Federation, *Report on the human rights situation in the European Union*, Moscow, 2012, at: http://www.mid.ru/brp_4.nsf/0/F6501F42C40A25EE44257ACC004971FC; *Report on the Human Rights Situation in the United States of America*, Moscow 22 October 2012, at: <http://www.mid.ru/bdomp/ns-dgpch.nsf/8f29680344080938432569ea00361529/2ab49ff642baf0c244257aa000254663>.

18 Cf. *MC Decision No. 19/06*, cited above (Note 5), Basic Principles, cited above (Note 4).

19 *CIS Convention*, cited above (Note 13).

20 Information on CIS election observation is available in Russian at: <http://e-cis.info/index.php?id=11>.

21 OSCE, *Overview Election Observation*, at: <http://www.osce.org/odihr/elections/43734>.

political will in Moscow to make full use of ODIHR's assistance, the Office is not in a position to further contribute to the consolidation of Russian democracy, notwithstanding the added value election observation brings to the electoral process, including in Russia.

A second goal of the Office, instrumental to the first one, is to defend its autonomy from other OSCE structures, and from the Permanent Council in particular. Election observation would be useless and ineffective if observers were controlled by governments. The majority of participating States share this principle.

In tackling attempts to undermine its autonomy, ODIHR has demonstrated both steadfastness and diplomatic wisdom. Although it is aware that the political differences underlying dissatisfaction towards the Office will not disappear in the short term, ODIHR has tried to eliminate possible causes of the perceived double standards. In line with an ODIHR report commissioned by OSCE ministers of foreign affairs in 2005²² and with the OSCE's Ministerial Council Decision No. 19/06,²³ ODIHR addressed some of the issues put forward by Russia.

First, ODIHR improved its methodology with new mission formats to observe elections "East of Vienna". Election Observation Missions, Limited Election Observation Missions, Election Assessment Missions and Election Expert Teams are now regularly deployed, according to the needs of participating States, to monitor specific aspects of the process.²⁴ The size of the mission and the number of observers are determined objectively according to the findings of a Needs Assessment Mission sent by ODIHR to the host country well ahead of the elections. To date, election observation activities have been implemented in all OSCE participating States. Even if this does not meet the Russian request to send the same number of observers everywhere, monitoring elections in the whole OSCE area can also add value where confidence in the process is high, stakeholders do not expect widespread violations during the polling, and the need for election day observation (and short-term observers, STOs) is low. In all these cases, a small pool of experts can effectively focus on key areas such as campaign finance, the legal framework for elections, and new voting technologies. Unfortunately, Western participating States tend to underestimate the added value of funding missions in established democracies as well as the political importance of ensuring uniform standards. In 2013, for example, ODIHR had to abandon efforts to send a mission to observe Italian parliamentary elections, because only one long-term observer (LTO) was seconded by participating States.

22 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, at: <http://www.osce.org/odihr/22681>, hereinafter: *Common Responsibility*.

23 OSCE, *MC Decision No. 19/06*, cited above (Note 5).

24 Cf. OSCE/ODIHR, *Election Observation Handbook*, Sixth Edition, Warsaw 2010, p. 29-32.

Second, in order to broaden a sense of ownership of its activities, ODIHR has promoted the participation of observers from post-Soviet and Balkan countries. ODIHR committed itself to deploying some ten per cent of STOs and LTOs from 17 countries using the resources of the “Fund for Enhancing the Diversification of OSCE/ODIHR Election Observation Missions,” a project established in 2001 based on donations.²⁵ This fund has been used to train observers from eligible countries on a regular basis since 2006. ODIHR also provides regular training to officials at the Russian Diplomatic Academy in Moscow.²⁶ Not only is the increased participation of observers from under-represented countries an answer to one of Russia’s main concerns, it also allows ODIHR to enhance the involvement of trained and independent observers, including those coming from civil society, through capacity building initiatives based on its established methodology.

Third, the quality of ODIHR reports has improved in terms of detail and thoroughness. In order to avoid stirring up tensions with the host country, the number of “political” recommendations, such as the need for a clear political will on the part of national authorities to address problem issues, has dramatically decreased. At the same time, ODIHR reports have not been indifferent towards Moscow’s main source of concern in the human dimension of the OSCE, namely the issue of Russian non-citizens in Latvia and Estonia, where ethnic Russians account for 27.6 and 25.5 per cent of the total population, respectively.²⁷ In Latvia, 14.1 per cent of residents are non-citizens. The figure for Estonia is 6.8 per cent.²⁸ These people do not enjoy voting rights. ODIHR has repeatedly recommended that this democratic deficit be addressed.²⁹

Fourth, ODIHR has reacted positively to other – mainly symbolic – Russian demands. For instance, it has increased the use of the Russian language in missions. In 2013, it agreed to undertake a review of electoral systems in the OSCE area, which Moscow has been requesting since 2001. However, ODIHR did not produce a comparative study of the legal frameworks for elections, something that Russia – eager to prove that no perfect democratic system exists in any of the OSCE countries – has had on its wish-

25 Cf. OSCE/ODIHR, *Democracy and Human Rights Assistance, Fund for Enhancing the Diversification of OSCE/ODIHR Election Observation Missions*, Warsaw, 3 October 2012. As of 2012, the eligible countries were: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Croatia, Georgia, Kazakhstan, Kyrgyzstan, the former Yugoslav Republic of Macedonia, Moldova, Montenegro, Uzbekistan, Serbia, Tajikistan, Turkmenistan, and Ukraine.

26 Cf. OSCE/ODIHR, *ODIHR helps dispel the myths about election observation*, 31 January 2007, at: <http://www.osce.org/odihr/elections/57571>.

27 For statistics on the populations of Estonia and Latvia, see: <http://estonia.eu/about-estonia/society/citizenship.html>; <http://estonia.eu/about-estonia/country/population-by-nationality.html>; <http://www.csb.gov.lv/en/notikumi/key-provisional-results-population-and-housing-census-2011-33306.html>.

28 Cf. *ibid.*

29 OSCE/ODIHR election observation reports on Estonia and Latvia are available at: <http://www.osce.org/odihr/elections/estonia>; <http://www.osce.org/odihr/elections/latvia>.

list for years, but merely undertook a review of the implementation of its own election-related recommendations, in order to identify good practices and common shortcomings, and stimulate discussion among participating States on how to enhance follow-up.³⁰

As far as the attempts to limit ODIHR's autonomy are concerned, when Russia sent late and conditional invitations to the Office for the observation of the 2007 parliamentary and 2008 presidential elections, ODIHR's choice made it clear that, while Moscow is determined to negate the potential of EOMs to destabilize domestic regimes, ODIHR does not accept that host countries can put conditions on its activity. Nevertheless, ODIHR has built on the improvements to its methodology explained above, and was able to resume co-operative relations with Russia immediately after this setback. To some extent, the diplomatic rift of 2007 and 2008 prepared the ground for meaningful election observation four years later. Some months after the 2008 presidential elections, Janez Lenarčič, who had recently been appointed ODIHR Director, took advantage of a seminar on election-related issues³¹ and visits to Moscow to undertake rapprochement between the Office and Russian representatives.³² From 17-22 August 2011, ahead of the 4 December Duma elections, ODIHR carried out a Pre-Election Assessment Visit, equivalent to a regular Needs Assessment Mission but with a less prescriptive name, to determine the appropriate size of the Election Observation Mission.³³ In the end, the Russian Central Election Commission invited the Office to deploy 200 observers – slightly fewer than requested. A high-level diplomat, respected in Moscow, Heidi Tagliavini, was appointed Head of Mission for the observation of both the 2011 and 2012 elections. Despite large-scale demonstrations in the aftermath of the Duma elections, no one in the Russian government considered the preliminary statement released by

30 Cf. Christina Binder/Armen Mazmanyan/Nikolai Vulchanov, *Review of Electoral Legislation and Practice in OSCE participating States*, OSCE/ODIHR, Warsaw, 15 October 2013, at: <http://www.osce.org/odihr/elections/107073>.

31 Cf. OSCE, *OSCE Chairmanship holds seminar on elections*, Vienna 21 July 2008, at: <http://www.osce.org/cio/49939>; OSCE/ODIHR, *Closing remarks of Ambassador Janez Lenarčič. Chairmanship Election Seminar*, Vienna, 21-22 July 2008, at: <http://www.osce.org/odihr/32950>.

32 Cf. Ministry of Foreign Affairs of the Russian Federation, *Russian Deputy Minister of Foreign Affairs Alexander Yakovenko Converses with Director of the OSCE/ODIHR Janez Lenarčič*, Moscow, 8 September 2008, at: http://www.mid.ru/bdmp/brp_4.nsf/e78a48070f128a7b43256999005bcbb3/ed86a9a9c9d96cb1c32574bf002af033; OSCE/ODIHR, *OSCE/ODIHR Director welcomes improved co-operation with Russian authorities*, Press Release, Moscow 10 September 2009, at: <http://www.osce.org/odihr/elections/51297>; Ministry of Foreign Affairs of the Russian Federation, *O besede Ministra inostrannykh del Rossii S.V. Lavrova s Direktorom Byuro po demokraticheskim institutam i pravam cheloveka OBSE J. Lenarčičem* [On the conversation of Minister of Foreign Affairs of Russia with OSCE/ODIHR Janez Lenarčič], Moscow 11 September 2009, at: http://www.mid.ru/brp_4.nsf/newsline/47853DBF30A8A332C325762E002C843C.

33 Cf. OSCE/ODIHR, *Pre-Election Assessment Report, Russian Federation State Duma Elections, 4 December 2011*, Warsaw, 14 September 2011, at: <http://www.osce.org/odihr/elections/Russia/82440>.

ODIHR to be a provocative move that could have inflamed public anger.³⁴ Even though Russian authorities consider this to have been a temporary, one-off “compromise”, it stands as a model for possible solutions in the future.

Foreseeable Developments

In the light of the analysis conducted so far, it is possible to draw some conclusions on the future of OSCE election observation.

As explained before, the root causes of Moscow’s dissatisfaction over ODIHR election observation have not been targeted by the adjustments made by the Warsaw Office to its activity and methodology. Therefore, criticism from Russia and other CIS countries persists and is unlikely to stop. In this context, the only way to effectively curb the autonomy of ODIHR would be a fully coherent hard-line approach, and the refusal of any compromise contradicting Russian proposals to establish strict political control over election observation. For many reasons, however, such a scenario seems rather unlikely.

Extreme choices would damage the OSCE as a whole, well beyond Russian intentions. Against this background, the apparent inconsistencies of the Russian approach towards ODIHR should be read as part of a broader strategy. A certain degree of tolerance towards the OSCE’s human dimension is in fact necessary to preserve the credibility of the Organization as a whole. Should ODIHR become unable to deliver on its mandate, the willingness to invest in the OSCE on the part of those participating States that consider the human dimension to be a fundamental area of engagement would probably decrease. Furthermore, Russia itself is not interested in damaging the OSCE. Traditionally, one of Moscow’s major fears on the international stage is to be isolated and encircled by unfriendly neighbours. At the same time, Russia wants to be recognized as an important international actor and appreciates being able to participate on an equal footing with its partners. This is why it needs the OSCE, a platform for dialogue and a clearing house to defuse tensions. Besides, at the OSCE level, Russia can still try to present itself as supported by an entourage of those CIS countries that are eager to share (some of) Moscow’s views. At the same time, if Russia were to take a harder line against ODIHR, post-Soviet countries that are not willing to increase tensions with Western OSCE participating States would be unlikely to go along with it.

Most importantly, election observation, whilst remaining a contentious issue, is no longer a major cause of disagreement. On the one hand, new election-related colour revolutions are unlikely to occur, and ODIHR is no longer perceived as a threat in this regard. On the contrary, positive co-

34 Cf. OSCE/ODIHR, *Election Observation Mission Final Report, Russian Federation Elections to the State Duma, 4 December 2011*, Warsaw, 12 January, 2012, at: <http://www.osce.org/odihr/85757>.

operation proved to be possible, even for the observation of elections in Russia, as in 2011 and 2012. On the other hand, the Ukrainian crisis has raised unexpected challenges for the OSCE. These issues stand now at the centre of the political agenda, and the way they will be managed by participating States, both within and outside the framework of the OSCE, will have a strong impact on the Helsinki +40 Process and the future identity and role of the Organization itself. In this context, election observation may indeed become a matter of political bargaining and conditions. For instance, Russia could exploit the disagreement over election observation to influence the level of confrontation with other participating States on unrelated matters, such as the OSCE's political and technical involvement in the solution of the Ukrainian crisis. As a consequence, the dialogue process on election observation that has been implemented in recent years may be disrupted by external events, and it becomes less easy to predict its future developments.

Budgetary restrictions imposed by Russia and other participating States represent an additional and concrete risk for ODIHR, as previously mentioned. In order to maintain its independence from donors, ODIHR sticks with the principle of using only resources from the OSCE unified budget (agreed by all participating States by consensus) for the deployment of the Core Team of experts that provide guidance to observation missions.³⁵ In the medium term, however, a decrease of available resources due to the zero nominal growth policy and delays in approval of the budget may force ODIHR to reshuffle its activity. For instance, it could reduce election observation in established democracies, as it recently did in the case of the 2014 federal elections in Belgium, which were not assessed by the Office “given the current budgetary constraints due to the lack of adoption of the 2014 OSCE Unified Budget”, even if “the OSCE/ODIHR would have recommended the deployment of an Election Expert Team with a focus on new voting technologies”.³⁶ Furthermore, in a context of economic crisis, many participating States have reduced the resources they allocate to the secondment of long- and short-term observers who join the EOM Core Team for the observation of the electoral process throughout the country. So far, voluntary contributions have been used only for the development of methodology and other limited projects that have succeeded in finding a broad consensus. Shortages in secondments may push ODIHR into accepting voluntary contributions from individual participating States and other donors for the deployment of a sufficient number of observers. Consequently, choices imposed by budgetary constraints may offer Russia new pretexts to accuse ODIHR of double standards.

35 Cf. *Common Responsibility*, cited above (Note 22).

36 Cf. OSCE/ODIHR, *Kingdom of Belgium. Federal Elections. 25 May 2014. OSCE/ODIHR Needs Assessment Mission Report. 3-6 March 2014*, Warsaw, 8 April 2014, at: <http://www.osce.org/odhr/elections/117281>.

In conclusion, it is unlikely that the period of low-intensity but continuous political pressure on ODIHR election-related activities is over. In the meantime, differences may arise on the occasion of the next elections in Russia (parliamentary in 2016 and presidential in 2018) and other like-minded countries, without this reaching a tipping point. In any case, the dialogue between Moscow and ODIHR will survive only if nourished with gradual and harmless concessions by the Office, as it has been so far. Overall, election observation does not seem to be directly threatened, and ODIHR should be able to carry out its activity effectively, especially in countries that are willing to make use of its assistance. However, budgetary pressures on ODIHR and troubling developments on issues not related to elections may challenge the status quo.