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On Reinvigorating European Security

The Organization for Security and Co-operation in Europe (OSCE) experienced one of its most difficult years in 2014, yet has shown its deep resilience. With the outbreak of conflict in Ukraine, attention focused on several international organizations, including the European Union (EU) and the United Nations (UN). However, it is the OSCE that has played the most prominent and arguably important role in monitoring the conflict in eastern Ukraine. Inasmuch as the OSCE has been under strain, with interest in its institutions, centres, and field missions declining in both the East and West, the Organization still remains an important security actor where geopolitics continues to cause insecurity in the region.

The conflict in Ukraine was brought to other parts of the world when a Malaysia Airlines flight to Kuala Lumpur was shot down over airspace held by the separatist militias in the Donetsk Oblast of eastern Ukraine. As we mark the first anniversary of the loss of 298 people from many parts of the world, but in particular Malaysia and the Netherlands, we still lack a definitive understanding of how the plane was shot down. What followed typifies the conflict in Ukraine, with both sides apportioning blame to the other while further manoeuvring into position to press on with the conflict. The OSCE was on the ground in Ukraine when MH17 fell from the sky after being hit by a Buk M1 missile system being used to limit the use of airpower by the Ukrainians in their fight with the Donetsk rebels. Despite evidence to the contrary, the rebels and the Russian government refused to accept their role in the downing of the flight or that they had interfered with evidence following the crash. The OSCE sought access immediately but was repeatedly turned back until given limited access to the crash site. The role of information in warfare means that the OSCE has a difficult job not only to seek to end the conflict, but also to monitor it.

This contribution will look at the OSCE as a security provider in the years 2014 and 2015, focusing necessarily on the Ukraine crisis and other areas of the former Soviet Union. As we see, the role of the OSCE is not straightforward in the region. However, no other security institution has the presence that the OSCE has there. This contribution considers the role of the OSCE in the field and in Vienna as it attempts to respond to and deal with Europe's biggest crisis since the Yugoslav Wars. It also looks at how the OSCE has attempted to deal with the conflict beyond the political manoeuvrings of the Organization. Finally, we look at the prospects of the OSCE as Russia becomes increasingly hostile to any intervention in its self-defined sphere of influence. We ask whether Ukraine marks the end of the Helsinki moment. To understand where we are, we need to understand where we have

been. And this is where we start, by discussing the nature of the OSCE as a security actor.

The OSCE as a Security Actor

What sort of security actor is the OSCE? The approach and its limits were established during the Cold War and the promise of détente. Born out of the Conference on Security and Co-operation in Europe (CSCE), the Organization for put into practice many of the key tenets of the Helsinki Final Act (1975) that were originally set up to keep geopolitics in check, but became more about managing state transitions. In the early days of the OSCE, there was a distinct connection between geopolitics and state transition. The participating States that influenced the institutional establishment of the OSCE saw that the uncertainty of state transition could have a negative effect on the relationship between states, and therefore established new institutions such as the Office for Democratic Institutions and Human Rights (ODIHR), the High Commissioner on National Minorities (HCNM), and the Representative on Freedom of the Media (RFOM).¹ Established in the early 1990s, these institutions were set up to help promote stable transitions in states that did not have prior experience of democracy and human rights. Of particular concern was the possibility of backsliding, whereby a state having set out on a transition would revert to a non-democratic state. In this way, there was always a tension between how the OSCE and its institutions saw these challenges in the OSCE area and how some participating States saw its agenda.

With the souring of the relationship between the West and Russia from 1998 onwards, the OSCE became a theatre of political communication, and this has limited its ability to further develop the ideals of the Helsinki Final Act. This is not to say that the OSCE was not already well developed by this time, with conflict prevention, resolution, and monitoring functions, not to mention a never-used mandate for OSCE peacekeepers. More specifically, the dialogue between East and West stopped. In its place was a slow realization in the West that the Russians, now under Vladimir Putin, had become increasingly sceptical of the OSCE as a caretaker or even instigator of transition. This came to a head with the so-called “colour revolutions”, in which the OSCE played a role by condemning pro-Russian governments for their conduct of elections. In many ways, the OSCE showed that it could effectively encourage liberal change, but the result was that Russia would no longer trust these parts of the OSCE and would openly attempt to stop or

1 Cf. P. Terrence Hopmann, The OSCE role in Eurasian security, in: James Sperling/Sean Kay/S. Victor Papacosma (eds), *Limiting institutions? The challenge of Eurasian security governance*, Manchester 2003, pp. 144-165.

harass them.² The OSCE was “in crisis,” as Pál Dunay wrote in 2006,³ with Russia now seeking a change in direction, which it referred to as a return to geopolitics and the basics of the Helsinki Final Act, while the West still refrained from entering into any discussion with Moscow about reform of the OSCE.

Nevertheless, many of the characteristics that made the OSCE relevant after the Cold War continue to play a role in the Organization’s work as a security actor in Ukraine. I have discussed these characteristics many times before,⁴ but they are worth repeating here, if only briefly. The OSCE benefits from four characteristics in its role as a security actor. The first is the inclusive nature of participation in the OSCE. Beyond the UN, the OSCE is the only organization to include among its participants both the United States and the Russian Federation. Furthermore, the OSCE extends all the way from “Vancouver to Vladivostok”, also including all the Central Asian and Caucasian states. Second, the OSCE remains a political organization without the ability to legally bind states, although OSCE norms do have the ability to “migrate” into other international organizations’ legal processes, as they have with the Council of Europe (CoE) and the European Commission. With its need for unanimous decision-making, the OSCE is established on consensus and communication. Third, the OSCE is the only organization with a presence in the region. With centres, offices, and field missions throughout the former Yugoslavia and Soviet Union, the OSCE is the “eyes and ears” on the ground while training police, informing journalists, supporting parents and schools, or providing policy assistance to governments. Finally, the OSCE has institutions unlike those of any other organization, such as the HCNM and the RFOM. Many of ODIHR’s norms, approaches, and techniques have been used by the CoE and the EU over the years, and the OSCE remains an important norm entrepreneur in the areas of national minorities and the media, which are vital for states that either suffer from rule-of-law issues or allow no room to critically engage with the law. The OSCE has leveraged all these strengths in its work in relation to the conflict in Ukraine.

2 Cf. David J. Galbreath, Putting the Colour into Revolutions? The OSCE and Civil Society in the Post-Soviet Region, in: *Journal of Communist Studies and Transition Politics* 2-3/2009, pp. 161-180.

3 Pál Dunay, *The OSCE in crisis*, Chaillot Paper No. 88, Paris, April 2006.

4 Cf. David J. Galbreath, *The Organization for Security and Cooperation in Europe*, London 2007; David J. Galbreath, Convergence without cooperation? The EU and the OSCE in the field of peacebuilding, in: Steven Blockmans/Jan Wouters/Tom Ruys (eds), *The European Union and Peacebuilding*, The Hague 2010, pp. 175-191; David J. Galbreath/Malte Brosig, OSCE, in: Knud Erik Jørgensen/Katie Verlin Laatikainen (eds), *Routledge Handbook on the European Union and International Institutions*, London 2013, pp. 271-281.

The OSCE in War

The OSCE was present in Ukraine before and after the so-called “Orange Revolution” in 2004. Along with the EU and a number of Ukrainian non-governmental organizations (NGOs) involved in democracy promotion, the Organization also played an important role in bolstering Ukraine’s civil society, which so prominently came to the fore throughout the Euromaidan protests from November 2013 to February 2014. The OSCE’s relationship with the Ukrainian state has been formalized in the mandate of the OSCE Project Co-ordinator in Ukraine, whose office was established in 1999 in Kyiv. Since September 2014, the role of Project Co-ordinator has been held by Ambassador Vaidotas Verba of Lithuania. In March 2014, the OSCE further established the Special Monitoring Mission (SMM) to Ukraine, following a request by the Ukrainian government. The OSCE SMM has a mandate that runs to March 2016. Its tasks include the following:

to contribute to reducing tensions and to help foster peace, stability and security [... to engage] with authorities at all levels, as well as civil society, ethnic and religious groups and local communities to facilitate dialogue on the ground [... to] gather information and report on the security situation, establish and report facts in response to specific incidents, including those concerning alleged violations of fundamental OSCE principles.⁵

The OSCE has made a major contribution to the initiative for a possible ceasefire in connection with what would become the Minsk Protocol of 5 September 2014 (contents of which were specified in the Minsk Memorandum of 19 September 2014) and the follow-up “Minsk II” agreement. The Minsk Protocol was the result of talks in September 2014 between the Ukrainian authorities and representatives from the two breakaway areas (*oblasts*) around Donetsk and Luhansk. Overseen by the OSCE in Minsk, the Protocol called for an immediate ceasefire and OSCE access to the Ukrainian and Russian border in the Donbas. The twelve-point plan also laid out a series of points around national reconciliation, economic development, and a special status for the eastern *oblasts*. Though it was initially agreed by representatives of the warring parties as well as the Russian Federation, the Protocol had no effect on the war other than allowing each side to blame the other for violating the ceasefire agreement.

As a result, the follow-up “Minsk II” agreement was concluded in February 2015 by representatives of Ukraine, Russia, France, and Germany. It was again overseen by the OSCE, though it was agreed without the participation of the rebel groups that had participated in the Protocol negotiations.

5 Cf. Organization for Security and Co-operation in Europe, OSCE Special Monitoring Mission to Ukraine, *Mandate*, at: <http://www.osce.org/ukraine-smm/117729>.

Considerable pressure was put on the warring parties to honour the ceasefire. There has been some indication that Minsk II has had an effect on the ground, especially in limiting the offensive character of Ukrainian military operations. Nevertheless, renewed fighting in the spring of 2015 represents a deterioration, and further evidence suggests that the Russian Army is active in the region with combat units, assets, and intelligence. A problem that the OSCE has faced in trying to ensure that the warring parties honour the two ceasefire agreements is the challenge of command and control, given that both sides make use of informal militias.⁶ As it stands, while the Minsk Protocol provides a future roadmap for national reconciliation and Minsk II provides a pathway to the ceasing of hostilities, the OSCE has been unable to bring about a change in the war.

The OSCE SMM Chief Monitor is Ambassador Ertuğrul Apakan of Turkey. With over 800 members of staff and nearly 600 observers, the OSCE SMM is tasked with monitoring the conflict and, following the signing of the Minsk II agreement, the ceasefire in the Donbas and the withdrawal of heavy weapons from the agreed security zone. However, according to reports, this has been largely ignored, particularly by the pro-Russian rebels and the Russian military itself.

What are the major challenges for the OSCE in Ukraine? Being able to operate a monitoring mission in a war zone is understandably difficult. For instance, being able to monitor the front line in order to verify claims around hostilities is an important part of the larger communication process that allows allies and the international community to apply pressure on parties to the conflict. Yet this means that being able to access the front lines, monitor troop movements as well as weapons and humanitarian logistics is extremely challenging. According to the OSCE spokesman Michael Bociurkiw, the OSCE SMM relies on unarmed aerial vehicles and satellite imagery to monitor areas that are restricted or too dangerous for observers.⁷ The OSCE SMM is using technology not only to keep its monitors out of harm's way but also to circumvent restrictions placed on them by either or both sides. For instance, following the shooting down of MH17, while the Donetsk People's Republic (DPR) forces controlled the crash site, OSCE observers had to get through difficult Ukrainian Army checkpoints along the way.

At the same time, the OSCE is in a difficult position in relation to this war in particular because of the warring parties' concentration on information. The Ukrainian state is keen to show that the eastern rebels are in fact working on behalf of the Russian Federation, as the 2014 events in Crimea would suggest, and that Russia is militarily involved in its neighbours' affairs (and thus in violation of international law). On the other side, the rebels seek

6 Cf. David J. Galbreath, *Is a failure in command and control the cause of MH17 disaster?* The Conversation, 18 July 2014, at: <https://theconversation.com/is-a-failure-in-command-and-control-the-cause-of-mh17-disaster-29425>.

7 Cf. Sputnik International, *OSCE Seeks to Increase Observers in Ukraine to 600*, 17 July 2015, at: <http://sputniknews.com/europe/20150717/1024760299.html>.

to demonstrate that they are victims of an increasingly violent central state that has little interest in constructively engaging with a largely Russian-speaking, industrial heartland. And for their part, the Russian Federation and the allies of the Ukrainian government such as the US and many EU member states have sought to use information to bolster support for their preferred partners in the conflict. As a result, the OSCE is caught in the crossfire of information warfare.⁸

The failure of the Minsk Protocol and, seemingly, of Minsk II as well, might suggest to some that the OSCE is either largely irrelevant to events on the ground in Ukraine or an abject failure. At the same time, there are reasons to think that despite the current state of affairs, the OSCE remains a significant security actor in Ukraine. The first reason is one that we have already encountered, namely that the OSCE is the only security organization providing monitoring and conflict resolution facilitation in Ukraine.⁹ That is not to say it is the only international organization, as the UN has a large role to play in terms of internally displaced persons (IDPs). Second, the OSCE has made some significant discoveries with respect to MH17, Russian combat troops, humanitarian-cum-military aid, military atrocities on both sides, and much more. The OSCE SMM is the most important eyes and ears on the ground. Third, the OSCE is able to bring representatives on all sides to the table to negotiate although, as we have seen, the plans themselves appear to have failed. Nevertheless, the OSCE does play an important role not only in Ukraine and with regard to its warring parties, but also in the international community, as the organization that is most appropriate for handling these negotiations. Finally, and relatedly, we have the validity given to the OSCE by the parties themselves in terms of the way that they attempt to use the OSCE to justify their own positions. When the conflict does begin to turn into a peace process, the OSCE will be better prepared to assist if both sides feel that the Organization can represent them appropriately. As always, the OSCE's greatest assets are those that keep it out of the headlines, as it works towards common and comprehensive security at the local and regional level.

The OSCE in Crisis

The conflict in Ukraine provides an interesting perspective on the overall health of the OSCE. Clearly, the OSCE is the only organization that has the ability to provide the expertise and know-how to engage the parties on both

8 Cf. Eugen Theise, *OSCE caught in the crossfire of the Ukraine propaganda war*, Deutsche Welle, 24 June 2015, at: <http://www.dw.com/en/osce-caught-in-the-crossfire-of-the-ukraine-propaganda-war/a-18539289>.

9 Note that the EU financially supports the OSCE SMM, most recently with 18 million euros, cf. Interfax-Ukraine, *EU to provide additional 8 million euros to OSCE SMM in Ukraine*, at: <http://www.kyivpost.com/content/ukraine/eu-to-provide-additional18-million-euros-to-osce-smm-in-ukraine-391695.html>.

sides of the conflict. The OSCE plays a similar role in Ukraine to the one it does as a platform for communication between differing views of security in the OSCE area. While the Russian government has provided considerable support for the OSCE's participation in the attempts to bring about ceasefires in Ukraine, Moscow is simultaneously applying pressure on other states to close down their OSCE offices, particularly in Central Asia.¹⁰ While the OSCE Academy in Bishkek and the OSCE Centres in the other Central Asian states are limited in their scope to pursue the goals of the Helsinki Final Act (which all participating States accept), there is still a feeling in Moscow that the OSCE's presence makes the region more unstable and less amicable to Russia. While this does not pose a problem to the existence of the OSCE itself, it does problematize the role of the OSCE in a region that perhaps most needs it, once more, where it is the only international organization in town.

This approach by Russia follows what has been going on since Putin became President. Referred to as the "reform agenda", there was a move to take the OSCE back to its roots, to look at the inter-state rather than intra-state level, from democracy and human rights promotion to non-interference and territorial integrity. Again, this was heightened at the time of the "colour revolutions" but has since become Russia's normal position, thus encouraging a deadlock at the OSCE. Today, reform of the OSCE is all but impossible, with the last major change having been the establishment of the RFOM in 1996. Russia has called for the OSCE to focus more on economic co-operation as a stimulus for confidence and security, but the OSCE would be a poor replacement for the regional economic giant that is the EU. Russia has also sought to get the OSCE to focus more on military placements in the area, with particular emphasis on regulating US military movements in the new NATO member states. Of particular concern under the George W. Bush administration was the prospect of missile defence systems deployed in Eastern Europe, though the programme was reduced in size with the election of Barack Obama in 2008.

As a result, the biggest problem for the OSCE has been the ambivalence shown to it by many of its participating States. Despite the fact that the OSCE still remains a primary security actor in the former Yugoslavia, Nagorno-Karabakh, Central Asia, and now Ukraine, there seems to be a definite turn within the Russian government towards the position that the OSCE no longer provides a platform for security co-operation on the issues that trouble the post-Soviet region. Instead, Moscow has come to the conclusion that the time of the post-Cold War settlement, ushered in by the 1990 CSCE Copenhagen Document, has passed. Nevertheless, Russia has not put forward an alternative to the OSCE either, though it has made an effort to refocus its attention from the Euro-Atlantic area towards its relationship with China. With the rejection of the post-Cold War settlement, there is also the risk that

10 Author's conversation with the head of the OSCE Academy in Bishkek, 10 June 2015.

Russia will reject the settlement that led to the end of the Soviet Union. This is not to say that Putin's government wishes to resurrect the USSR in its entirety, but that it has departed from the previous agreements of more pro-Western governments. This has opened the door to invading and claiming parts of Ukraine (Crimea, possibly Donbas); Georgia (Abkhazia, South Ossetia, possibly more); and possibly even Moldova (Transnistria). These actions would seemingly threaten the post-Cold War settlement between the West and Russia. The question is whether this means a new settlement or a complete change in Russia's relationship with Europe and North America. If the OSCE is able to survive, there must be a prospect for further co-operation or at least a common vision about what form such a settlement would take.

Yet, the problem is not all of Russia's making. The West has also been busy establishing alternative institutions to duplicate the functions of the OSCE and to project those into a traditional OSCE area.¹¹ For instance, while democracy and human rights have always been a function of the CoE, the enlargement of the Strasbourg-based organization meant that the OSCE's activities in democracy and human rights promotion began to overlap with those of the CoE. This relationship could be positive, as the OSCE and the CoE are different sorts of organizations and have different ways of engaging states, but it presents a problem of complexity. The EU has also taken on many of the functions of the OSCE, including election observation, border monitoring, reporting missions, crisis response mechanisms, all the way down to taking on the notion of comprehensive security.¹² As I have argued elsewhere,¹³ this relationship between the OSCE and the EU and CoE can be positive in that the more that organizations can work from the same foundation of norms, the more emphasis there is on reform for states that are not meeting these norms. At the same time, there is the prospect that the relationship between organizations leads to "forum shopping", whereby states seek the organization that best fits their own current agenda. In many ways, that is what has happened to the OSCE over Ukraine, where, though it is the only international security actor on the ground, it is also the most palatable, thanks to its lack of enforcement. Russia's relations with the EU and the CoE have suffered in the Ukraine crisis. The EU applied economic sanctions and travel bans on Russia following its military intervention in Ukraine over Crimea, and extended them over Donbas. At the same time, the Russian government has been working to distance itself from the CoE ever since, in April 2014, the organization's Parliamentary Assembly (PACE) suspended Russia's voting rights in response to its actions in Crimea. In response, the Russian

11 Cf. David J. Galbreath/Carmen Gebhard (eds), *Cooperation or Conflict? Problematizing Organizational Overlap in Europe*, Farnham 2010.

12 Cf. Carmen Gebhard/Per Martin Norheim-Martinsen, Making Sense of EU Comprehensive Security towards Conceptual and Analytical Clarity, in: *European Security* 2/2011, pp. 221-241.

13 Cf. David J. Galbreath/Joanne McEvoy, *The European Minority Rights Regime. Towards a Theory of Regime Effectiveness*, Basingstoke 2012.

constitutional court ruled in July 2015 that decisions of the European Court of Human Rights could not overrule the Russian Constitution. Again, the OSCE is left as the only remaining organization in which Russia can engage on the same platform with the US, Europe, and the rest of the former Soviet Union.

The Death of the Helsinki Moment?

The Helsinki Final Act was a spectacular moment in the Cold War. It was the time when the Cold War became a Long Peace, in John Lewis Gaddis' phrase.¹⁴ As many said at the time, this was not a step forward but simply the consequence of the end of the Second World War and a recognition of the status quo that came with it. All the groups – Atlantic, European, non-aligned, Warsaw Pact – could each take something away from the Final Act that would build, from their point of view, confidence and security. In other words, there were converging interests in the Final Act that allowed states to see some issues in their own light while seeing others in a shared light. These two types of issues, one of shared interest, one of shared action, made the Final Act a lasting document that could be built upon to create the organization that we know today. Yet, as a political organization with little cost of non-compliance or scope for grand political structures, and without a sense of shared interest and action, the OSCE appears less relevant to today's parties. Are we at the end of the Helsinki moment?

This is not to say that there are not converging interests among participating States. There are shared views on terrorism, economic prosperity, state capacity, and environmental and energy security, to name but a few. However, the actionable elements of such policies have increasingly become divergent or simply not enough, or have become the product of another institutionalized relationship outside of the OSCE. Of course, the OSCE does have things to do, and there are areas where the OSCE is good if not better than other actors, as we have seen in the former Yugoslavia in many cases. There are changing perceptions in participating States, and there is increasing divergence between ideas about what is to be done, as is so clearly evident in the war in Ukraine.

Can the OSCE outlive the Helsinki moment? Yes and no. Yes, the OSCE can continue to use the Final Act as a founding document that acts as a historical record of where it has been, but it increasingly needs to reform what it means as a political organization. After all, the Helsinki Final Act makes for a good founding act, as it confirms the common and comprehen-

14 Cf. John Lewis Gaddis, *The Long Peace: Inquiries into the History of the Cold War*, New York 1987.

sive security in the larger Euro-Atlantic region.¹⁵ Furthermore, the OSCE, or rather than CSCE, has been here before. Following the Soviet invasion of Afghanistan in 1979 and the subsequent collapse of Soviet-US relations, the Helsinki moment seemed to be dead.¹⁶ Yet, the changes in the Soviet Union brought about by Mikhail Gorbachev restored the Final Act to the forefront of European security and brought participating States closer to understanding the common and comprehensive approach to security and why it matters for a stable Euro-Atlantic area. The Helsinki moment was saved.

At the same time, the war in Ukraine marks what has been a steady deterioration in relations between Russia and not just the West but all the rest. We can look at the Kosovo crisis as the turning point where Russia saw that the West would play by what it saw as Western rules. And it is the Kosovo effect that has given us the 2008 Russo-Georgian War and the war in Ukraine and seizure of Crimea that started in 2014. The OSCE cannot survive the death of the Helsinki moment if there is no mutual understanding of how European security politics is to be done. The previous rules, embodied in the Helsinki Final Act, will no doubt be seen as relevant to European security, as no doubt they are seen as relevant to those in the OSCE now. Yet, if the OSCE cannot be seen to be working towards ensuring common and comprehensive security in the Euro-Atlantic area, then the “Organization *for*” may have to wait for a new “Conference *on*” to continue.

15 Cf. Harold S. Russell, The Helsinki Declaration: Brobdingnag or Lilliput? In: *American Journal of International Law* 2/1976, pp. 242-272.

16 Cf. Robert Litwak, *Detente and the Nixon Doctrine: American Foreign Policy and the Pursuit of Stability, 1969-1976*, Cambridge 1984.