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## The Missions to the Republic of Moldova and the Ukraine: A Double-Entry Balance Sheet

The long-term missions established in various conflict areas in Central and Eastern Europe have had an important influence on the identity and the image of the OSCE during the period since 1992. They encompass a variety of responsibilities such as early warning, conflict prevention, mediation during or in the aftermath of conflicts, and assisting with the implementation of OSCE principles. At the same time, the missions - which emerged more in an *ad hoc* fashion than as a strategically conceived instrument - have given an important stimulus to the institutional development of the OSCE overall. In spite of the often complex problems in the areas where the missions operate and the modest means they have to exercise influence, their role in conflict prevention and crisis management in Eastern Europe has been given predominantly positive evaluations by political actors and scholarly observers.

This generally positive judgement applies to the long-term Missions to the Republic of Moldova and the Ukraine which are among the small missions of the first generation with fewer than two dozen members. A decision was made on 4 February 1993 to open a *CSCE Mission to Moldova* and it began operations on 25 April 1993 in the Moldovan capital of Chişinău with authorized personnel numbering six civilian and two military members. Even now, after six years, the regularly extended mandate of the Mission can in no way be regarded as fulfilled. The Mission's end, therefore, lies in the distant future. On 15 June 1994 the Committee of Senior Officials decided to send a *CSCE Mission to the Ukraine*: its mandate was approved on 25 August 1994 by the Permanent Committee. The first of the six civilian Mission members<sup>1</sup> began work on 21 November 1994 in the Ukrainian capital of Kyiv. At the end of April 1999 the Mission's mandate was not renewed. Thus for the first time an OSCE mission closed down operations after fulfilling its mandate. A comparative balance between the operational methods and the political effects of the two Missions reveals a number of common elements but also fundamental differences which had a decisive effect on the different results achieved after several years of activity.

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<sup>1</sup> The first draft of the mandate, dated 17 June 1994, provided for one military member in addition to the six civilians, but this was not accepted by the Ukrainian side.

### *Parallels and Differences in Initial Conditions*

Critical developments in Moldova and the Ukraine can be traced back to comparable processes and patterns in the late and post-Soviet transformation. As a result of perestroika both countries experienced the rise in national movements among titular populations whose goal was political emancipation from Russian-Soviet domination and soon began to seek national independence. The sovereign states that emerged from the dissolution of the Soviet Union were given a clear ethno-national character by these movements and saw themselves for the most part as national states of the titular peoples, even though they are far from being ethnically homogeneous countries. The tense relationship between the national renaissance of the titular nation and the political integration of the population as a whole has been a constitutive element of state-building in both Moldova and the Ukraine. In various phases of this process there were either latent or open conflicts with parts of the minorities. Because the Russian or Russian-speaking portions of their populations are so large, both countries are tied together in a triangular relationship with the former imperial centre, Russia, which sometimes aggressively lays claims to the role of a protective power vis-à-vis these population groups. This gives the internal minority issues in both countries a level of significance in the field of security policy which was one reason for the OSCE's mediation initiatives.

An important difference between the Missions lies in the level of escalation of the conflict and the timing of the OSCE's entry into the conflict cycle. Just a year before the dispatch of the OSCE Mission the Republic of Moldova had experienced a civil war that lasted for several weeks and caused over a thousand deaths. It had been preceded by the gradual transformation of a protest movement by the Russian-speaking population against the real and supposed Romanianization of the Republic into a violent movement led by the old political and economic elites opposed to reform and aimed at splitting off the territories they dominated in the eastern part of the country.<sup>2</sup> It was only in June 1992 with the intervention of the Russian 14th Army on the side of the separatists that an end was put to the military escalation of the conflict be-

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2 Cf. Gottfried Hanne, *Der Transnistrien-Konflikt: Ursachen, Entwicklungsbedingungen und Perspektiven einer Regelung* [The Trans-Dniestria Conflict: Causes, Development and Prospects for a Settlement], *Berichte des Bundesinstituts für ostwissenschaftliche und internationale Studien* [Reports of the Federal Institute for Russian, East European and International Studies] 42/1998; Klemens Büscher, *Die "Staatlichkeit" Transnistriens - ein Unfall der Geschichte?* [The "Statehood" of Trans-Dniestria - an Accident of History?], in: Egbert Jahn (Ed.), *Nationalismus in der europäischen spät- und postkommunistischen Gesellschaft* [Nationalism in Late and Post-Communist European Society], Vol. 3: *Nationalismus in den nationalen Gebietseinheiten der osteuropäischen Staaten* [Nationalism in the National Territorial Units of the Eastern European States] (forthcoming); Claus Neukirch, *National Minorities in the Republic of Moldova - Some Lessons Learned, Some Not?*, in: *South East Europe Review for Labour and Social Affairs* 3/1999, pp. 45-63.

tween the Moldovan leadership, which insisted on comprehensive nationalization, and the separatists who sought to consolidate their control over all Trans-Dniester (left bank of the Dniester) territories as well as the city of Bender on the right bank. This put the finishing touches on the *de facto* splitting off of the Trans-Dniester territories and made it possible for the leadership in their main city, Tiraspol, to establish quasi-governmental structures of their own. Even today the government in the Moldovan capital has virtually no control over the renegade territory. Under these circumstances, the heart of the OSCE Mission's mandate lies in crisis management, post-conflict rehabilitation, and support for the attempt to find a durable autonomy arrangement for Trans-Dniesteria within a re-integrated Republic of Moldova.<sup>3</sup>

In the case of the Ukraine, which has many similarities, this kind of conflict escalation was prevented by a number of factors, among them the generally more moderate position of the Ukrainian leadership, the relatively smaller importance for the country as a whole of the area of tension, the stronger regional roots of minorities and a higher degree of cultural heterogeneity even within the various ethnic groups. Since the beginning of the nineties secession efforts of serious political importance have been concentrated in the Crimea which, because of its Russian majority, the relatively short time it has belonged to the Ukrainian Republic, and certain socio-economic characteristics, represents a special case amongst the territories of the Ukraine.<sup>4</sup> What precipitated the disputes was the problem of developing an autonomy statute for the Crimean Republic within the Ukrainian state. Underlying this, however, was the fundamental question of acceptance of an independent Ukraine by the Russian population of the Crimea as well as by nationalist groups in Russia which at least rhetorically have given all the support they could to irredentist tendencies in Simferopol. Although tensions between the central government in Kyiv and the leadership of the Crimea assumed threatening dimensions in the summer of 1994 and the risk of escalation was obvious, there was never any massive use of violence nor did it ever come to any cohesive and dominating secession movement in the Crimea, least of all a successful one. The establishment of the OSCE Mission was therefore aimed at preventing an escalation of the "war of laws" between Kyiv and Simferopol

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3 Cf. Stefan Troebst, Der Transnistrienkonflikt und seine Bearbeitung durch die OSZE [The Trans-Dniester Conflict and its Handling by the OSCE], in: Afrikanische Perspektiven. Friedensbericht 1998. Theorie und Praxis ziviler Konfliktbearbeitung in Osteuropa [African Perspectives. Peace Report 1998. Theory and Practice of Civilian Conflict Management in Eastern Europe], Chur/Zurich 1998, pp. 347-379; Rolf Welberts, Der Einsatz der OSZE in der Republik Moldau [The OSCE Mission to the Republic of Moldova], in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg [Institute for Peace Research and Security Policy at the University of Hamburg]/IFSH (Ed.), OSZE-Jahrbuch [OSCE Yearbook] 1995, Baden-Baden 1995, pp. 193-210.

4 Cf. Maria Drohobycky (Ed.), Crimea. Dynamics, Challenges, and Prospects, Boston 1995; Gwendolyn Sasse, The Crimean Issue, in: The Journal of Communist Studies and Transition Politics 1/1996, pp. 83-101.

through relatively early conflict prevention efforts. This preventive approach to the job in the Ukraine thus had a less dynamic character than the mandate of the Moldova Mission, which was aimed at prevailing over the status quo. Among the parallels between the OSCE involvements was that in both cases the Missions were equipped with only eight respectively six international members of differing professional backgrounds, with a central office in the capital and a branch office in the main city of each zone of conflict. At the same time, however, this formal similarity points to the differing political significance of the Missions within their host countries. In the Republic of Moldova where, as of the beginning of 1996, there was still no EU country represented by an ambassador, the Mission was from the start among the most important foreign representations and in the eyes of the Moldovan elite symbolized international recognition of the country's independence, a role which the Mission to Ukraine - eighteen times as large, geographically, and close to twelve times in terms of population - could never play. Quite the opposite. The difficulty in reaching agreement on a mandate, the delay in commencing work and the frosty relations between Ukrainian authorities and the Mission<sup>5</sup> illustrate the much more difficult conditions under which the OSCE Mission to the Ukraine had to begin its work in comparison with the "sister mission". While the Moldovan media reported regularly and for the most part favourably on the Mission there, in the Ukrainian case, it is doubtful whether the majority of journalists, even in Kyiv, knew about the existence of an OSCE Mission at all.

Parallels and differences can also be found in the quite broadly formulated mandates. The core of the Missions' responsibilities lies in the initiation of a dialogue and efforts to facilitate negotiations between the parties to the conflict in each case - a goal which in the mandate of the Mission to Moldova is defined as a lasting political settlement of the conflict, "consolidating the independence and sovereignty of the Republic of Moldova along with an understanding about a special status for the Trans-Dniester region". Both mandates also refer to the human dimension of the OSCE. In the Republic of Moldova the Mission is to support explicitly the implementation of international obligations in the field of human rights and minority rights, along with democratic transformation. The mandate of the Ukraine Mission limited itself to situation reports on human rights and the protection of minorities in the Crimea as well as monitoring and promoting freedom of the press throughout the country. The responsibility for collecting information, which is contained

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5 Cf. the article by the Swiss journalist and first Head of Mission, Andreas Kohlschütter, *Möglichkeiten und Grenzen der Präventivdiplomatie. Das Beispiel der OSZE-Mission in der Ukraine* [Possibilities and Limits of Preventive Diplomacy. The Example of the OSCE Mission to the Ukraine], in: *Theorie und Praxis ziviler Konfliktbearbeitung. Friedensbericht 1996* [Theory and Practice of Civilian Conflict Management. Peace Report 1996] (Beiträge zur Friedensforschung [Contributions to Peace Research] Vol. 30, No. 1-2), Chur/Zurich 1996, pp. 125-148.

in both mandates, also provides some latitude for activities in the area of the human dimension. The mandate for the Ukraine identified a third area of concentration in the Mission's participation in working out economic programmes, particularly with respect to the Crimea; thus it was the only mandate of an OSCE mission with a specifically economic point of reference.<sup>6</sup> The Moldova Mission, on the other hand, has also been given two military responsibilities - collection and transmission of information on the military situation and promoting an agreement on the withdrawal of Russian troops. All in all, the mandate of the Mission to the Republic of Moldova contains a range of responsibilities that is somewhat broader and deeper than the one in the Ukraine. This has to do, on the one hand, with the severity of the conflict there and, on the other hand, with the stronger political position enjoyed by Kyiv. The government of Ukraine was obviously able, in the negotiations on a mandate, to set clearer limits to the level of authorized intervention by the OSCE Mission in "internal affairs".

While the official mandates reflect a negotiated compromise between various positions within the OSCE framework, the majority of the participating States on the one hand and the affected countries on the other have certain identifiable fundamental interests and objectives with respect to the OSCE Mission which, insofar as they are not to be found in the mandate's text, might be described as an "implicit mandate".<sup>7</sup> Thus the Moldova Mission, in a wide-spread OSCE approach, also serves to work against renewed military escalation or territorial expansion of the Trans-Dniestria conflict. Concern over regional security - in particular with regard to the relationship between the Ukraine and Russia - was of great importance in the dispatch of the Ukraine Mission as well. Support for reform policies in both countries is another aspect that can be assigned to the "implicit mandate" of the Missions. The host countries, on the other hand, viewed the Missions above all as instruments for warding off Russian efforts at domination, although in substantially different ways: Kyiv sought support for its Crimea policy under the concrete circumstances that existed in 1994 while for Chişinău the establishment of territorial integrity and the consolidation of its existence as a state, both internally and externally, have since 1992 constituted the foundation of its foreign policy for which all international support is welcome.

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6 Cf. Jonathan Cohen, *Conflict Prevention Instruments in the Organization for Security and Co-operation in Europe: An Assessment of Capabilities*, London 1998, p. 61.

7 Cf. Klemens Büscher, *Möglichkeiten und Grenzen des OSZE-Konfliktmanagements in Moldova [Possibilities and Limits of OSCE Conflict Management in Moldova]*, in: *Ethnos - Nation. Eine europäische Zeitschrift* 2/1995, pp. 71-85, here: p. 75.

### *Main Elements of the Mission's Work in the Republic of Moldova*

Since 1993 mediation in the conflict over the status of Trans-Dniestria has been at the forefront of the Mission's work, which the various Heads of Mission have so far conducted with quite different points of emphasis. In November 1993 the Mission presented a detailed draft of an autonomy statute for Trans-Dniestria within the Republic of Moldova which not long afterwards was accepted by the then Moldovan President, Mircea Snegur, and the Trans-Dniestrian leader, Igor Smirnov, as a basis for negotiations.<sup>8</sup> Along with a Russian and, since autumn of 1995, a Ukrainian co-mediator the Mission has ever since been trying, at the presidential and expert level, in confidential talks and at multi-lateral summit meetings, to move the negotiations forward.

In recent years the Moldovan government has taken up many of the suggestions of the mediators. The centre-right governments of 1998/1999 had also shown that they were prepared to grant broad territorial autonomy to Tiraspol. At the same time, Chişinău demand for protection of the sovereignty and territorial integrity of the country has frequently been given public support by the three mediators. By contrast, the signals coming out of Tiraspol continue to be contradictory. Leading representatives of Trans-Dniestria regularly emphasize their willingness to accept a peaceful compromise solution - only to call, a little later, for Chişinău's recognition of the political independence of Trans-Dniestria as the first step in negotiations. A "Memorandum on the Bases for Normalization of Relations" that was signed in May 1997 by Smirnov and the Moldovan President, Petru Lucinschi, as well as by the Presidents of Russia and Ukraine and the Chairman-in-Office of the OSCE, in essence repeated the declaration of intent of the two political leaders at the beginning of negotiations in April 1994. Tiraspol interprets the core message of the Memorandum, on the search for a settlement of status within a "common state", as calling for a treaty-based confederation of two equal political entities and, by insisting on this maximized position, blocks *de facto* any possibility of compromise. However, the negotiations are also made more difficult by the Moldovan side's conduct of them which occasionally borders on the unprofessional and is hampered by domestic political disputes, especially when election campaigns are going on.

In the meantime the Mission, working together with the mediators from Russia and Ukraine, has worked out a new compromise proposal which was presented to the parties in November 1998 as a basis for further negotiations. It provides for extensive territorial autonomy for Trans-Dniestria within the

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8 Cf. a detailed piece by Claus Neukirch, *Der Status Transnistriens aus politischer und völkerrechtlicher Sicht* [The Status of Trans-Dniestria from the Political Viewpoint and that of International Law], *Aktuelle Studien der Friedrich-Ebert-Stiftung Ukraine*, December 1998, pp. 44-45.

Moldovan state which, in the course of an "all-embracing phased settlement of relations", will gradually be defined and implemented. An arbitration commission made up of representatives of both sides and of the three mediators is to monitor this implementation process and negotiate compromise solutions to controversial issues. The Trans-Dniestrian leadership has rejected this flexible settlement model as well and has announced that it is instead working out a model confederation arrangement of its own. At the most recent summit meeting, which took place in Kyiv on 16 July 1999 after a delay of several months, Lucinschi and Smirnov, together with the then Russian Prime Minister Sergei Stepashin, the Ukrainian President Leonid Kuchma and the Representative of the OSCE Chairman-in-Office in Vienna, Kai Eide, signed a joint declaration on questions of normalizing relations between the Republic of Moldova and Trans-Dniestria which shows no significant progress in negotiation of the core issue.

In addition to the actual negotiations on status, the OSCE Mission has devoted its efforts from the beginning to promoting dialogue, confidence and co-operation between representatives from both banks of the Dniester. This involves, for one thing, round-table talks and other forms of co-operation between society's actors on both sides, including "cross-border" co-operation between neighbouring villages. However, numerous initiatives involving NGOs have failed owing to resistance from the Trans-Dniestrian leadership, which is not democratically legitimized and governs in authoritarian fashion and either torpedoes the relevant political activities or attempts to exert complete control over them. In addition, the Mission has supported initiatives to bring those involved in the status negotiations together in different and more relaxed settings. On a number of occasions the Mission's own offices were the scene of informal talks between the opposing sides in the negotiations. At a conference on decentralization, autonomy and federalism organized by the OSCE Mission in November 1994 in Chişinău a productive dialogue developed with high-ranking Trans-Dniestrian representatives. Several conflict workshops took place outside of Moldova in co-operation with the Centre for Conflict Analysis from Canterbury. In 1996, the various actors met in Kyiv at a Dutch-Ukrainian seminar. A seminar organized in September 1997 in Flensburg by the European Centre for Minority Issues resulted in a joint declaration by leading representatives of both sides.<sup>9</sup> However, the overall inadequacy of progress in the efforts made so far can be seen from the fact that a high level OSCE seminar in 1998 on inter-relationship between central and regional governments was boycotted by the Trans-Dniestrian leadership on the grounds that the designation of Chişinău as a central government was unacceptable for Tiraspol.

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9 Cf. Priit Järve, Seminar "From Ethnopolitical Conflict to Inter-Ethnic Accord in Moldova", Flensburg 1998 (ECMI Report 1).

The Mission's activities in the field of human rights - to which one Mission member devotes most of his efforts - produced mixed results. In the Republic of Moldova on the right bank of the Dniester the situation with regard to human and minority rights has improved steadily ever since the beginning of independence. The adoption of an autonomy statute for Gagauzia in December 1994, admission into the Council of Europe as the first CIS member, and the ratification of the Framework Convention for the Protection of National Minorities in 1996, along with several elections which the OSCE characterized as being, on the whole, fair and free, have marked the positive development of this country on its way to becoming a democratic state based on the rule of law - a path which has, to be sure, been overshadowed by a serious socio-economic crisis and a wide variety of transition problems. By contrast, the leadership in Tiraspol refuses to accept any genuine democratization and secures its power through censorship of the media, aggressive propaganda and unconcealed pressure on opponents of a radical secession course.<sup>10</sup> The OSCE Mission has tried to mediate, especially in the controversy over the enforced use of the Cyrillic alphabet in the Moldovan language, but there has so far been no enduring settlement of this issue.

The OSCE Mission has had relatively little freedom of action in the military field. Among its most important responsibilities is its advisory participation in the trilateral Joint Control Commission which monitors the security zone established along the Dniester in 1992. The leadership in Tiraspol has continued to refuse the Mission access to clearly illegal or presumably illegal Trans-Dniestrian military bases and arms production facilities within the security zone. Moreover, due to Trans-Dniestrian blockades, in initiatives aimed at confidence-building and parallel force reductions in the area of tension hardly any progress has been made. But a renewed outbreak of armed conflict remains very improbable.

With regard to withdrawal of the Operational Group of Russian forces, the former 14th Army, the wording of the Mission's mandate has proved inadequate since, as a result of the Moldo-Russian agreement of 21 October 1994 on the withdrawal of Russian troops (in whose preparation the OSCE was hardly involved), the Mission's responsibilities can in the strict sense of the word be seen as fulfilled. On the central issue of implementation of the withdrawal of forces, the Mission was scarcely able to bring any noticeable influence to bear, apart from maintaining regular working contacts with the participants. Since a revision of the mandate had been impracticable for several years such Mission involvement in this area was based mainly on its general responsibility for collecting information and on the decision of the OSCE

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10 On the Trans-Dniestrian regime, see: Klemens Büscher, Separatismus in Transnistrien. Die "PMR" zwischen Rußland und Moldova [Separatism in Trans-Dniestria. The "PMR" between Russia and Moldova], in: Osteuropa 9/1996, pp. 860-875.



Summit in Budapest in 1994 to offer the Mission's services in monitoring the withdrawal.<sup>11</sup> The 1994 bilateral agreement has not been ratified by the Russian Duma nor has it been implemented by the government. Even so, Russia has on a number of occasions reaffirmed internationally its obligation to withdraw the troops. In recent years a number of reductions, bringing the force level down to about 2,600 troops, have taken place, mainly motivated by financial considerations. Steps have also been taken to destroy older stocks of ammunition and to remove armaments and equipment, in part monitored by the OSCE Mission. All the same, President Yeltsin's ostentatious declaration in the context of the CIS summit in Chişinău in October 1997 that the forces would be withdrawn immediately if Chişinău so desired proved an empty promise.

At the Permanent Council on 3 June 1999, reacting to a demand by the OSCE Council of Ministers at Oslo in December 1998, the Russian delegation tabled a schedule for the withdrawal of forces and the removal, sale or destruction of all military equipment and ammunition - a move which does not *de facto* represent progress. Instead of the three-year period foreseen in the 1994 agreement the complete withdrawal of the already reduced Operational Group has now been extended to over five years, until the end of 2005. While the Duma's failure to ratify has hitherto served as the excuse for non-implementation of the agreement, the schedule presented by the Russian side now makes agreement by both Chişinău and Tiraspol a condition of its fulfilment. But the leadership of the renegade territory still insists on continuing Russian military presence and they have anchored in law Trans-Dniestria's claim to ownership of the equipment, ammunition and property of the Russian army. The threat to block the Russian troop withdrawal with Cossack units from Tiraspol and other radical elements is intended to increase the pressure on Moscow, thus making agreement with Tiraspol a practical impossibility. It should be emphasized here that considerations of political stability do not argue against a withdrawal of the Russian troops - with the exception of a minimal force to guard property and those munitions which cannot be transported.<sup>12</sup> Moscow's continued tactics of delay can only be explained by a military strategy aimed at hegemony or domestic political appeasement of pro-Trans-Dniestrian elements in the Duma.

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11 On 9 December 1999 the Permanent Council decided to expand the mandate in terms of ensuring transparency of the withdrawal process and co-ordinating foreign assistance.

12 The Russian peacekeeping troops in the security zone (presently about 500 men), who since May of 1996 have been recruited from the Operational Group, should be treated separately; under current circumstances their presence is indispensable.

### *Activities of the Mission to the Ukraine*

The OSCE Mission began its work at a time of growing tension and hardened fronts between the leadership in Kyiv and the politicians in the Crimea, who were also at odds with each other. In this situation, characterized by mistrust, it was only gradually possible to establish contact with key actors and to win the confidence of the sides involved. There was always a risk that the parties to the conflict would try to use the Mission for their own purposes. A number of organizational hurdles during the build-up phase resulted in part from the more than sceptical attitude of both conflict parties towards the OSCE Mission, i.e. signing of the Memorandum of Understanding was delayed; there were attempts to limit the Mission's range of action; the work space made available during the entire first year, both in Kyiv and Simferopol, was unacceptable; the Mission did not obtain the maximum number of authorized personnel i.e. six members until August of 1995. In the aftermath of a speech by the Head of Mission in the Supreme Soviet of the Crimea on 31 May 1995<sup>13</sup> which was heavily criticized - mainly in Kyiv - the Ukrainian government began for the first time to consider refusing an extension of the Mission mandate.

The Mission mandate calls explicitly for co-operation with the HCNM, who has been active in the Ukraine since the beginning of 1994, and with an expert group on constitutional and economic matters set up by the OSCE. As a result the Mission has only to a limited extent been able to operate as an independent actor in the Ukraine. An intensive and durable co-operative relationship with the HCNM developed in early 1995 where the Mission, acting as the "eyes and ears of the High Commissioner"<sup>14</sup>, supported his prevention efforts in many ways. Close co-operation also developed on rule-of-law issues with the ODIHR.

At the centre of the Mission's activities was the maintenance of mutual understanding between the conflict parties and support for a dialogue to develop the status of the Crimean republic. On 17 March 1995, while the Mission was still in its initial phases, a serious step towards escalation occurred when the Ukrainian Parliament declared null and void numerous laws passed by the Parliament of the Crimea, among them the controversial Crimean constitution of 1992, the electoral law and the law on the presidency of the Crimea. Shortly afterwards Ukrainian President Leonid Kuchma made the government of the Crimea directly subject to his control and threatened to dissolve

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13 For the English version, whose textual identity with the speech as given in Russian is disputed, see OSCE Mission to Ukraine, Activity and Background Report No. 7, 5 June 1995, Annex II.

14 Thus the ideal-typical characterization of the co-operative relationship between missions and the HCNM by the former Chairman-in-Office Margaretha af Ugglas, Conditions for Successful Preventive Diplomacy, in: *The Challenge of Preventive Diplomacy. The Experience of the CSCE*, Stockholm 1994, pp. 11-32, here: p. 26.

the Supreme Soviet in Simferopol which, for its part, announced a referendum on the constitution of the Crimea. Thereafter, the OSCE Mission was heavily involved in crisis management and made a contribution to the resumption of talks. Its activities in this constitutional conflict between Kyiv and Simferopol were, however, generally limited to offering and transmitting expert advice, as the government of Ukraine had explicitly rejected any role for the Mission as mediator in the talks. In practice of course it is not always possible to draw a clear line between these two functions.

At the high point of the confrontation, in May 1995, the Mission organized a round-table seminar in Locarno, Switzerland, with the HCNM on ways of settling the Crimean conflict. Among the participants were 16 independent experts and leading politicians from Kyiv and Simferopol. The seminar provided the basis for continuing the search for a compromise. A second seminar with 50 participants was held in Yalta in September 1995 in a substantially improved political climate and was devoted to the reintegration of peoples formerly deported from the Crimea. The main subject of discussion at a third round table organized by the Mission and the HCNM in Noordwijk, Netherlands, in March 1996 was a modified draft of the constitution of the Autonomous Republic that had been passed by the Crimean Parliament on 1 November 1995. Further steps on the way to a settlement of the conflict were the ratification in April 1996 by a clear majority of the central Ukrainian Parliament of all uncontroversial articles in the Crimean constitution<sup>15</sup> and the passage in June 1996 by the Parliament in Kyiv of a Ukrainian constitution whose Article X, independently of the ongoing autonomy talks, confirmed the status of the Crimea as an Autonomous Republic within a unified Ukrainian state, thus creating a new legal status quo. These developments impelled the then Foreign Minister of Ukraine, Hennady Udoenko, to call for an end of the OSCE Mission as early as May 1996. However, lively controversy arose once again over the articles of the Crimean constitution that had been rejected by Kyiv. It was not until October of 1998 that the Supreme Soviet in Simferopol adopted a draft constitution (the fifth since 1992) that had been presented by Leonid Grach, chairman of the Crimean communist party and spokesman of the Crimean Parliament; it was ratified by the Ukrainian Parliament on 23 December 1998. With its publication on 12 January 1999 the constitution, which to a large extent regulates the status and competences of the peninsula along the lines desired by Kyiv, entered into force.

Along with the settlement of the internal Ukrainian conflict, significant progress was made in the years 1997-1999 in reaching formal agreement on the bilateral relationship between the Ukraine and Russia, a matter which

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15 Twenty articles of the Crimean constitution which were viewed as "separatist" were excluded.

was not part of the Mission's responsibilities. The friendship treaty, concluded in May 1997, was ratified in January 1998 by the Ukrainian Parliament, in December of the same year by the Russian Duma and, finally, in February 1999 by the Federation Council, the Russian upper house. A condition attached by the latter - Ukrainian ratification of the bilateral agreement on the Black Sea fleet - was fulfilled one month later by the Parliament in Kyiv so that the Treaty on Friendship and Partnership between Russia and the Ukraine entered into force on 1 April 1999.

While the OSCE Mission was able to reduce its involvement in the constitutional struggle between Kyiv and Simferopol, problems related to the formerly deported peoples, especially the Crimean Tatars, assumed more immediate significance. The complaint raised by representatives of the Crimean Tatars that the agreement on a constitution for the Autonomous Republic had been reached at their expense is not entirely without foundation. Beginning with the Yalta round table and then more intensively since the middle of 1996 the Mission and the HCNM worked to achieve better political and socio-economic integration of the multi-ethnic population of the peninsula. In addition to the linguistic and cultural development of the non-Russian groups, the problem of Ukrainian citizenship was a core issue as, until recently, only two-thirds of the more than 260,000 Crimean Tatars had it. This meant that about four per cent of the peninsula's population enjoyed only limited political, economic and social rights. Despite demands from the OSCE and other international organizations that the acquisition of citizenship be eased for the returnees from Uzbekistan and other CIS republics, the amendment of the citizenship law in April 1997 and a Ukrainian-Uzbek special agreement in August 1998 were no more than half-hearted measures. Most recently a naturalization campaign begun in 1998 by the Ukrainian government and the UNHCR, which was supported by the OSCE Mission, has provided grounds for cautious optimism.

The OSCE's appeal for the provision of appropriate political and electoral representation of deportees did not meet with much enthusiasm in either Kyiv or Simferopol. In the elections to the Crimean Supreme Soviet at the end of March 1998 not a single candidate from the Crimean Tatar list was elected while four years earlier 14 Crimean Tatars had entered the 100 seat Parliament on the basis of a quota mechanism. The proportion of Crimean Tatars in regional governmental institutions is generally no more than one or two per cent.<sup>16</sup> The Crimean constitution that has now entered into force left almost all political and cultural demands of the Crimean Tatars out of consideration. Moreover, the efforts of the OSCE, UNDP and UNHCR to improve the diffi-

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16 Cf. Yulia Tyshchenko, "The Punished People": Crimean Tatars and Prospects for Integration into Ukrainian Society, in: Research Update No. 126, Independent Center of Political Research (Kyiv), 17 May 1999.

cult social situation of the returnees, among other things through economic development programmes for the peninsula and international donor conferences, have so far had little effect. Recent months have seen an increase in inter-ethnic tensions in the Crimea, more and more frequently accompanied by violence.

In the meantime, the Ukrainian government, beginning in 1996, increased its efforts to have the OSCE Mission closed. Informally, the Mission staff had for a long time been reduced to four members and under pressure from Kyiv this was made official in December 1997. The Ukrainian Foreign Minister, Borys Tarasyuk, in office since April 1998, then made the Mission issue a priority in Ukrainian policy. This position was motivated by a number of factors. There is no doubt that the perception of the Mission as a stigma for the country and an unjustified intervention in its internal affairs was widespread within the Ukrainian elite. There was, in addition, a conviction that the support of an OSCE mission was no longer needed, either to overcome separatist movements in the country or to defend against Russian hegemonial claims. Finally, the Mission's activities failed to produce the results Kyiv wanted in the economic sphere as the Mission had no money of its own for this purpose and was not authorized by its mandate to function as a clearing house in obtaining financial assistance externally. It is noteworthy in this connection that the activities of other international organizations (both inter-governmental and non-governmental) aimed at overcoming Ukrainian weaknesses in the fields of democracy, civil society and the rule of law have not at all been viewed as intervention or stigmatization. The often substantial financial resources of, say, UNDP, TACIS, IOM, Freedom House and the Soros Foundation (which in Ukraine operates as the "Renaissance Foundation") are entirely welcome among the Ukrainian elite, both central and local.

In view of the fact that the central issue covered by the Mission mandate had for the most part been settled, the Western countries interested in a continuation of the Mission gave up their resistance and at the end of April 1999 accepted, as a first step, the transformation of the Mission into an expert group. After difficult negotiations the Permanent Council decided on 1 June 1999 to establish an "OSCE Project Co-ordinator in Ukraine" to plan, carry out, and monitor the activities of various OSCE institutions - initially until the end of the year, but with the option of further extensions for periods of six months. The Co-ordinator is housed, along with two international assistants, in the former Mission offices in Kyiv and works on the basis of a new Memorandum of Understanding signed on 13 July 1999. The Mission's office in Simferopol was closed earlier, in April 1999. The new OSCE presence is substantially different from a mission because the Co-ordinator has no mandate that defines substantive competences relating to specific fields of policy but, rather, functions as a general representative of the OSCE. His activities are

defined in terms of specific projects and the list of planned projects must be agreed upon in advance with the Ukrainian government. The regular comprehensive reporting on developments in domestic and foreign policy, with expert background analysis, has also been abandoned in favour of reporting on specific projects.

#### *A Double-Entry Balance Sheet*

The fact that the Mission to the Republic of Moldova will probably continue to function for a number of years while the one in the Ukraine has already been closed owing to the fulfilment of its mandate does not permit us to draw any clear conclusions about the accomplishments of the two Missions. On the contrary, we can see that there are positive tendencies but also important questions still unanswered in both Moldova and the Ukraine. It has become obvious, however, that the dynamic task of settling a "frozen" secession conflict is more difficult than preventing the escalation of a conflict.

In the case of Moldova it is useful, when examining the effects of a mission presence that has lasted for over six years, to draw a distinction between an implicit and an explicit mandate. It is a fact that the generally favourable evaluation of the work of the OSCE Mission to Moldova lies in the successful arrest of the Trans-Dniestrian conflict, to which the Mission has made a substantial contribution. Thanks to the efforts of the OSCE representatives the conflict was transformed into a kind of continuous negotiating process that for the most part has kept the risks of escalation for regional security under control. But when one looks at the heart of the Mission's explicit mandate, the net result has been disappointing. Despite the discussions that have been held since 1994 there has been no substantial progress on the issue of Trans-Dniestrian status. A narrowing of the gap on an approach to this issue in a few areas has been offset by the alienating tendencies in both parts of the country resulting from the *de facto* independence of Trans-Dniestria. Restoring territorial integrity to Moldova is a distant prospect, especially because the Trans-Dniestrian leadership is using the time in which negotiations are being held to consolidate its own state structures.

The decisive obstacle to a settlement of the conflict is the lack of any political will in Tiraspol to find a compromise solution. There are two reasons for this. With regard to ideology, the Trans-Dniestrian leaders have often made clear that they favour the restoration of the former Soviet Union under Moscow's leadership and hence could only accept a reunification with Chişinău within the framework of this kind of Greater Russian and, at the same time, anti-Western state. Tiraspol is buttressed in this position by massive political support from the communist and nationalist majority in the Russian Duma. Ti-

raspol used the war in Kosovo as a pretext to systematically stir up fears of a supposed NATO intervention in Trans-Dniestria and to hinder OSCE Mission members from NATO countries in their work. Behind this line of xenophobic ideological argumentation, however, are both the material and political personal interests of the Trans-Dniestrian leadership elite. Their disposition over resources and their far-reaching control of both the legal and the illegal economy of the region would be seriously threatened if Trans-Dniestria were subordinated to the central government authority in Chişinău. Indeed, it does not appear that any agreement can be reached between the parties to the conflict until democratic reforms and a long-overdue change of elites make the real interests of the Trans-Dniestrian people the basis for Tiraspol's negotiating position.

The OSCE Mission has not, however, been able to develop any effective methods for bringing the Trans-Dniestrian regime - repressive and internationally unrecognized as it is - closer to the norms and principles of the OSCE. Its means for convincing the actors east of the Dniester of the need for a reasonable compromise solution and for overcoming the division of the country are clearly inadequate. Only in concert with the Russian government might it be possible to exert effective pressure on Tiraspol but Russia, after calculating its own interests, seems to prefer to keep the conflict going.

In the Ukraine the conflict appears to have taken a favourable course since the OSCE Mission was established. There is no doubt that the Mission, acting together with the High Commissioner on National Minorities and other OSCE actors, has been able to contribute to a reduction of tensions and a settlement of the conflict. Without a well based in depth analysis of OSCE activities and of the political processes in Kyiv, Simferopol and Moscow it will hardly be possible to come to any definitive conclusion as to whether this was a substantial<sup>17</sup> or, rather, an insignificant contribution<sup>18</sup> to conflict prevention in the Ukraine. In any event, successes in conflict prevention are in principle hard to measure and often do not become visible until a fairly long period of time has elapsed.

Finally, it should be pointed out that the entry into force of the Crimean constitution provided the Ukrainian government with a powerful argument when it was pressing for the closure of the Mission. If the OSCE participating States had wanted to go on insisting on further extension of the mandate, this could only have been achieved through disproportionate pressure on the Ukraine. And with the transformation of the Mission the OSCE has not only

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17 Cf. Victor-Yves Ghebali, *L'OSCE dans l'Europe post-communiste, 1990-1996. Vers une identité paneuropéenne de sécurité*, Brussels 1996, pp. 617-618; Rolf Welberts, *The OSCE Missions to the Successor States of the Former Soviet Union*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), *OSCE Yearbook 1997, Baden-Baden 1998*, pp. 123-134.

18 Thus Natalie Mychajlyszyn, *The OSCE in Crimea*, in: *Helsinki Monitor* 4/1998, pp. 30-43.

created a new kind of presence in a participating State but faced up to the politically very important question of an exit strategy, thereby warding off the threat of an "endless circuit"<sup>19</sup> of mandate extensions. This is a step that deserves to be viewed positively, quite apart from the feared "domino effect", i.e. pressure for closing other missions.

Even so there is room for doubt about the correctness of the decision in the Ukrainian case. Separatist tendencies have by no means completely disappeared in the Crimea and could gain new momentum from the strengthening of pro-Russian forces that has for some time been observable in the Ukrainian Parliament and in Ukrainian society. In March 1999 the Supreme Soviet in Simferopol appointed Admiral Mikhail Khronopulo, well known as a proponent of a Greater Russia, as the permanent representative of the Autonomous Republic of Crimea in Moscow. Simultaneously one of the most promising of the Russian presidential candidates, the mayor of Moscow, Yuri Lushkov, had for years been openly promoting irredentist objectives and, in addition, actively opposed the ratification of the Ukrainian-Russian Friendship Treaty in the Federation Council, calling it a "disgrace". Inter-ethnic relations have become noticeably worse in the Crimea, where the willingness on the part of the younger generation of Crimean Tatars to resort to violence has been growing in the same measure that tolerance on the part of the Slavic majority wanes. The long-lasting crisis in the Ukrainian economy and the tendency towards impoverishment in certain parts of the population could in the Crimea easily lead to intensified inter-ethnic tensions, especially between Muslim and Slavic-Orthodox groups.

Even more problematic than the open questions in connection with the Crimea are the unfavourable developments in the area of the human dimension. In view of the fact that the Council of Europe is thinking about excluding the Ukrainian delegation from the Parliamentary Assembly<sup>20</sup> and that the US "Committee on the Protection of Journalists" has, provocatively but not entirely without reason, put the Ukrainian President on the list of the ten biggest "enemies of the press 1999", the closing of the Mission was without question the wrong signal. Instead, what is urgently needed is an intensification of the OSCE's efforts - with all available instruments - to promote democracy and the rule of law in Ukraine.

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19 Berthold Meyer, In der Endlosschleife? Die OSZE-Missionen auf dem Prüfstand [In an Endless Circuit? The OSCE Missions under Examination], Hessische Stiftung Friedens- und Konfliktforschung, HSK-Report 3/1998, July 1998.

20 Recommendation 1416 (1999) "Honouring of obligations and commitments by Ukraine" of the Parliamentary Assembly of the Council of Europe, adopted on 24 June 1999; on the critical human rights situation, see also the IHF Annual Report 1999 on Ukraine.