OSCE Network

RUSSIA'S WAR AGAINST UKRAINE: IMPLICATIONS FOR THE FUTURE OF THE OSCE

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INTRODUCTION: IMPLICATIONS OF THE WAR IN UKRAINE FOR THE OSCE

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Russia's illegal and unjustifiable invasion of Ukraine has fundamental consequences for the OSCE. Participating States have fought each other before but there has never been a war of this size and destructiveness in the history of the OSCE or its predecessor, the CSCE. The decision of the Russian government to go to war, and the way it has been waging this war, violates all of the fundamental principles of international law and all OSCE norms going back to the Helsinki Decalogue.

Can the OSCE survive? Should it survive or has it lost its purpose when a major participating State no longer respects the basic rules? Should Russia be excluded from the OSCE, and is this feasible? Should OSCE activities and structures be adapted, and how?

As the fighting in Ukraine is continuing, and as diplomats and OSCE representatives ponder options for the OSCE, there are still no clear answers to these questions. This is also because the answers will reflect different assessments of the track record of the CSCE/OSCE, different views on which OSCE dimensions and activities should be preserved or prioritized, and beliefs about the role of regional organizations in international affairs. But even in times of dramatic change, researchers can provide insights by analyzing previous crises the CSCE/OSCE has faced, examining the travails of other international organizations, exploring how the OSCE might change, and considering what would be lost in the case of radical change or, indeed, the demise of the OSCE.

This publication presents views of members of the OSCE Network of Think Tanks and Academic Institutions. The OSCE Network is a Track II initiative created in 2013 and comprising around 150 member institutions from across the OSCE area. It supports co-operative and comprehensive security by offering knowledge transfer, fostering transnational research, and raising awareness of the OSCE. We have asked members to discuss the consequences of the war against Ukraine for the OSCE in input papers of around 1,500 words, which were submitted in the second half of May 2022. While we provided a set of broadly framed questions, members decided themselves which aspects they wanted to discuss.

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[1] Coordinators of the OSCE Network of Think Tanks and Academic Institutions.

The 20 papers included in this collection are very diverse, yet there is agreement among their authors that 24 February 2022 was a watershed moment in the history of the OSCE, threatening the Organization's role as a contributor to Euro-Atlantic and Euro-Asian security. Authors also stress that Russia's war is the culmination of a long process of organizational decline resulting from increasingly divergent interests among participating States. However, while some authors see no prospect for the OSCE in its current form, others draw lessons from history to argue that the OSCE can survive and how it can adapt.

The aim of this introduction is not to summarize each paper. Rather, we highlight aspects that offer clues for understanding the OSCE's present state and its potential future (without reducing the papers, some of which discuss various topics, to the aspects we highlight).

Several authors underline that the OSCE has struggled to carry out its core function of conflict prevention and conflict management, discussing specifically the OSCE role in Ukraine. *Oleksiy Semeniy* argues that the OSCE, including the Special Monitoring Mission (SMM), has largely failed in Ukraine and that it is unlikely that the Organization will play a major role in future conflict management in relation to Ukraine. He also questions the consensus rule as limiting options for dealing with states that violate basic principles. *Yana Lysenko's* assessment is similarly negative. Focusing on the SMM, she points at major weaknesses of the mission and argues that in order to address these weaknesses, institutional changes within the OSCE are needed that allow moving beyond lowest common denominators.

Other authors, by contrast, highlight past achievements and future opportunities of the OSCE in Ukraine. *Christophe Paulussen* regards the publication of a report on violations of international humanitarian law and human rights law, following the invoking of the Moscow Mechanism, as a bright spot in dark times. *Fred Tanner* offers concrete suggestions for an OSCE role in Ukraine in case of a ceasefire or peace agreement, such as with regard to small arms and light weapons, ceasefire monitoring, and refugee return. *Andreas Wittkowsky* writes that notwithstanding the uncertain outcome of the war, the OSCE should prepare for a ceasefire scenario and a potential field operation. This suggests now is the right time to systematically evaluate the lessons learned from the many challenges that the SMM faced.

Other contributors to this volume discuss implications of the war for the OSCE's institutional design and activities. Three authors (*Jos Boonstra*, *Mattthias Dembinski*, and *Hans-Joachim Spanger*) speak in favor of reducing the OSCE to a CSCE-style conference format (if the outcome of the war allows for this). From this perspective, support for policy implementation through OSCE field operations and institutions is no longer feasible. This is not least in order

to enable Russia to participate in any future arrangement, as without Russia a successor organization to the current OSCE would, according to the authors, be pointless.

Another contribution offers a bleak outlook too, drawing on comparative research. *Vytautas Jankauskas* and *Steffen Eckhard* reveal that UNESCO has been an ailing organization for many years, due to different political interests of member states and despite reform efforts. This is despite the fact that conditions in UNESCO (where, for example, member states decide on the basis of majority voting) are more favorable to reform.

However, other authors paint a picture that is less bleak and suggest ways in how the OSCE can be preserved, also drawing on lessons from previous crises. *William H. Hill* recalls that CSCE negotiations began shortly after the Soviet invasion of Czechoslovakia. He acknowledges though that the current situation is different, not least because there are now significantly fewer neutral and non-aligned states, and because NATO and EU do not bring some important decisions to the OSCE, incentivizing Russia to do likewise. Nevertheless, the OSCE can serve as a venue for political dialogue on issues of shared interest, and de-institutionalizing should be avoided as much as possible even if it will become more difficult to avoid a shrinking of the budgets and the size of institutions such as ODIHR.

Several authors discuss the future of Russian participation in the OSCE. *P. Terrence Hopmann* argues that Russia should not be expelled from the OSCE because the Organization could not be effective in any important way. While he regards suspension of Russian participation as an option, he also cautions that suspending Russia is likely to be more complicated than was the case with Yugoslavia in 1992. Similarly, *Andrea Gawrich* warns that a Russian exit from the OSCE would have implications for participating States allied with Russia, the number of which is larger than in the Council of Europe. As also stressed by *Reinhard Krumm*, in the vote in the United Nations General Assembly in early March 2022, many states did not condemn Russia's war, including several OSCE participating States. The widening gap weakens the respect for, and recognition of the value of, international law and multilateral organizations like the OSCE. Upholding international law and committing to multilateralism, however, are especially important in times of deep crisis when both are needed more than ever.

Wolfgang Zellner argues that although Russia's actions would justify a suspension, a consensus minus one decision is unlikely because of Russia's allies. Moreover, as Europe is facing a possibly long period of high instability, the OSCE is needed to enable dialogue even among enemies in order to mitigate instability. Zellner thus envisages European security as a

mix of conflict and co-operation. In order for the OSCE to survive, he posits three minimum institutional requirements: a Chairperson-in-Office, a Secretary General, and a budget.

Several contributors acknowledge that although the OSCE will most likely remain weak, it has specific advantages that states should use and that merit preserving the Organization. *Jelena Cupać* and *Michael Zürn* highlight roles for the OSCE in areas including monitoring a potential ceasefire in Ukraine and supporting reconstruction. Moreover, EU and NATO members can use the OSCE for engaging with states and regions where Russian influence is strong, such as in the South Caucasus, and also use the OSCE for signaling condemnation of Russian violations of OSCE principles. *Monika Wohlfeld* looks at another area where the OSCE has utility: dialogue with Mediterranean partner states. The scenarios she presents indicate that further weakening of the OSCE would negatively affect its Mediterranean dialogue at a time when Mediterranean states feel the impact of Russia's war against Ukraine.

Advocating for a preservation of the OSCE, many of the contributions offer concrete ideas for how states can use the OSCE to promote peace and stability in Europe. *Philip Remler* suggests that dialogue with Russia can be productive if it is compartmentalized to exclude discussion of mutually exclusive maximalist demands. *Ian Kelly* discusses options in case consensual decision-making, for example on field operations, is not possible, such as by drawing on special representatives and extrabudgetary funding. *Rick Fawn* underlines what would be lost if the OSCE were no longer present, especially in Central Asia and the Western Balkans, and suggests options for adapting to the current conundrum, such as with regard to voting mechanisms and funding. *Anastasiya Bayok* and *Stefan Wolff* point to the need for participating States to work together on issues of current interest, and identify especially the Organization's second dimension as presenting many opportunities in this regard. *Michael W. Mosser* writes that neutral states can contribute to building bridges among participating States, acknowledging though that potential Finnish and Swedish NATO membership will reduce the number and influence of neutral states.

Many contributors to this volume see a future for the OSCE. However, there is doubt even among the most optimistic voices that the war in Ukraine, as the culmination of a steady decline of the Organization over many years, will leave OSCE activities and structures intact. *Michael W. Mosser's* assessment reflects the spirit of many of the following contributions:

> As a scholar of the Organization, I care deeply about it and want it to continue to be a part of the conversation around European security. But it is becoming increasingly clear to me that the OSCE as currently structured cannot be a part of rebuilding the shattered European security architecture. The rules, norms, and decision-making procedures set forth in the Charter of Paris

for a New Europe of 1990 and the Budapest Declaration of 1994 are now rightfully seen as part of a false peace, an interregnum between the Cold War and whatever new era in which we now find ourselves.

The question then is how the OSCE can be adapted to new realities, whether changes such as curtailing the autonomy of OSCE institutions will create more loss than gain, and which governments and societies will gain and lose. While substantial answers to these questions will necessarily be multi-facetted, addressing these questions is further complicated by the ongoing fighting, as when and how the war will end will impact the future of the OSCE.

Writing an input paper for this collection was therefore challenging. We are grateful to our authors for sharing their knowledge and personal experience, and thus supporting the OSCE Network. This contribution demonstrates the potential of transnational research co-operation to produce ideas for moving towards sustainable peace even in times of war.

IN SEARCH OF AN ACCEPTABLE PURPOSE: OUT-OF-AREA AND "PERIPHERAL" SECURITY CHALLENGES IN THE OSCE'S SECOND DIMENSION

Anastasiya Bayok[2] & Stefan Wolff[3]

As much as one would wish it to be otherwise, the OSCE faces an existential crisis. It was a troubled organization long before Russia's aggression against Ukraine, but it is only now that its very survival is increasingly in doubt. Two sets of questions are being asked in this context. The first is whether the OSCE can survive, that is, whether it will have a budget, a Chair for 2024, and a Secretary General after Helga Maria Schmid's mandate expires at the end of next year. The second, and the one to which we want to provide one potential answer, is whether the OSCE should survive, that is, whether it still has a purpose that unites all its participating States.

Finding a purpose for an organization that has been around for almost half a century and has increasingly failed to deliver on its core premises of conflict prevention and confidence building seems almost pointless. And yet, the search for a (new) purpose will be essential in ensuring that the OSCE can survive the current crisis and perhaps in the future re-discover its roots. One of the core elements of European security is unquestionably the relationship between Western states and Russia. But European security goes beyond that.

The reality that the OSCE finds itself in in 2022 is a fundamentally different one than that of the Helsinki process in the early 1970s. While the war in Ukraine may be the central challenge to the OSCE today, embedded as it is in a Cold War-like competition between Russia and the West, it is not the only one. Losing sight of, or ignoring, other challenges deprives the OSCE and its participating States of an opportunity to assess whether saving the Organization might still be a worthwhile endeavor despite the current crisis.

Three of these challenges are, in our view, particularly pertinent in this context. They can only be tackled jointly by all participating States, and this will require at least <u>minimal co-operation</u> with Russia. This is certainly a hard ask in the current situation, but a necessary one for the sake of what the OSCE stands for: co-operative and comprehensive security.

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The first of these challenges is China, whose presence and activities across the OSCE region have significantly grown over the past decade. This is particularly related to the Belt and Road Initiative (BRI) which has grown, since its inception by Chinese president Xi Jinping in Kazakhstan in 2013, into a vast global development project with increasing geopolitical and geo-economic implications. Belt and Road co-operation now involves almost 150 countries including 27, or almost half, of the OSCE's 57 participating States. China has poured tens of billions of dollars in loans and investment, especially in infrastructure projects, into the OSCE region. In many participating States, China's model of governance is seen as an attractive alternative to the liberal market economies that once seemed to underpin the now elusive OSCE consensus. The OSCE area, thus, is now penetrated by three arguably rival economic (and political) integration projects — the European Union, the Eurasian Economic Union, and the BRI. With its own long-established track record in promoting economic connectivity, the OSCE would be in a position to engage in a political dialogue with China in a way that articulates the interests of its participating States in its second dimension.

The second challenge is Afghanistan. While the OSCE's relations with Afghanistan, which has been one of its Asian Partners for Co-operation since 2003, were problematic before the Taliban takeover, they have become a critical, and so far unresolved, challenge since then, especially for the Central Asian participating States. Yet, international terrorism, drug trafficking, and large-scale migration — the three threats most frequently associated with Afghanistan — have potential repercussions far beyond Central Asia. Activities in the second dimension on their own do not offer a comprehensive and effective response, but they could be part of a package that is aimed at stability and humanitarian relief in the short term and at addressing the underlying causes of insecurity and instability in the medium- to long-term.

The third challenge is climate change. The OSCE's Ministerial Council in Stockholm, in one of its few decisions in 2021, acknowledged "the increasing challenges of climate change for the economy and environment in the OSCE area," including as "a global challenge to achieving the objectives of the UN 2030 Agenda for Sustainable Development and its Sustainable Development Goals." The OSCE could certainly serve as a platform to deal with the consequences for European security of this challenge, including by building on its prior track record in addressing climate change, including in Eastern Europe, Central Asia, and the South Caucasus.

At the same time, one of the areas globally most affected by climate change — the Arctic — is entirely part of the OSCE region, yet also one of the most neglected on the OSCE agenda,

despite some notable activity by the Parliamentary Assembly, which has its own Special Representative on Arctic Issues. As noted in her final report in 2021 by the previous Special Representative, Torill Eidsheim, "the retreat of Arctic sea ice is … opening up the Northern shipping route" which "provides huge opportunities for new and expanded economic activities, but also increases trade competition and geostrategic tensions". Climate change, thus, is an area of central concern to all participating States, and one with significant potential for being addressed within the second dimension.

It would be wrong to assume that these three challenges are just a matter of the OSCE's economic and environmental agenda. They are more broadly significant for Europe's security and cut across the other two dimensions — be it in relation to social and economic rights, the right to a healthy environment, or in relation to an increasing military and security footprint of China — and represent truly transnational threats, such as those related to terrorism and organized crime. Rather, our point is that looking at these challenges from the perspective of the second dimension might be a more productive and constructive way to make the most of the OSCE as an organization of 57 participating States and the convening and agenda-setting powers that come with that. Doing so will require a renewed appreciation of the OSCE's considerable track record of Confidence Building in the Economic and Environmental Dimension and of the unique role the Organization can play in promoting economic connectivity.

When the OSCE Ministerial Council in December 2021 agreed the Decision on Strengthening Co-operation to Address the Challenges Caused by Climate Change, it tasked "the relevant OSCE executive structures, in particular the Office of the Co-ordinator of OSCE Economic and Environmental Activities and the OSCE field operations within their mandates and available resources, with assisting participating States upon their request in implementing the provisions of this decision, in co-operation with other relevant regional and international organizations, where appropriate". This illustrates the possibility of achieving consensus even under conditions of extremely tense relations between participating States. Yet consensus on the decision now needs to be followed with meaningful activity, including in participating States and the OSCE's remaining field operations that have a mandate extending to the second dimension. Not letting these mandates expire will be a first litmus test of how serious participating States are in their commitment to the survival of the OSCE.

Similarly, Afghanistan has been on the agenda of the OSCE since the takeover by the Taliban in August 2021. While much focus in Vienna and at the OSCE Border Management Staff

College has been on border security and transnational threats, the situation in Afghanistan also represents an opportunity to reconsider economic issues, such as improving the socio-economic situation in Central Asian participating States, enhancing economic connectivity in the region, and preparing for a gradual and conditional integration of Afghanistan into cross-regional connectivity networks.

Finally, concerning China, one of the key shared interests relates to (economic) connectivity, including trade and transport infrastructure, as well as digital connectivity. China has also signaled interest in the Arctic — declaring itself a near-Arctic state in 2018 in its first Arctic strategy — thereby providing another area in which OSCE activities in the second dimension could provide a useful platform for engagement. Although there is no formal relationship between China and the OSCE as such, links exist, for example through the Shanghai Cooperation Organization, which, too, has become more interested in aspects of economic connectivity. Given the increasing relevance of China for many of the OSCE's participating States, especially those along the economic corridors of the Belt and Road Initiative, the OSCE and its participating States cannot afford to ignore China. Moreover, China has indicated an interest in "greening" the BRI but still lacks the required experience and know-how, including of applicable standards in OSCE participating States. Here again the OSCE has some potential to become more involved in contact and dialogue formats, possibly alongside the United Nations, for the benefit of its participating States, for example through its network of sixty Aarhus Centres across 14 participating States that could provide a platform for dialogue between citizens, governments, the private sector, and relevant Chinese actors on mitigating the environmental impact of any BRI projects. With few, if any, opportunities to engage on the OSCE's first and third dimensions, this, again, makes the second dimension an obvious starting point, including by initially considering Track-2 initiatives.

Ultimately, what we suggest is that the OSCE's economic and environmental dimension be put front and center in a new narrative about the added value that the OSCE retains for all its participating States. For too long, this dimension, which encapsulates issues central to the idea of comprehensive security, and increasingly so, has been the poor relation of the first and third dimension (obvious, for example, from its roughly 3.5 per cent share in the Organization's overall budget).

As it is also the least politicized of the three dimensions, it could serve as a focal point for the Organization and its participating States to find an acceptable purpose for which to secure the survival of the OSCE. The OSCE and its participating States are in dire need of rebuilding

confidence in each other and the Organization as a whole. The second dimension, thus, may well present the best, and last, opportunity to save the OSCE.

THE OSCE: BACK TO SQUARE ONE?

Jos Boonstra[4]

It is still early days as the Russian war against Ukraine is raging, but the OSCE needs to start thinking about its future and what role it can fulfil in the European security architecture. The OSCE participating States will need to be bold in their approach. This will be difficult as establishing regional organizations is easier then reforming or even abolishing them. A renewed OSCE should return to its essence of dialogue and co-operation on European security. It should stay away from implementation of policies and programs via missions and institutions. Two principles should remain to stand central. *First*, the inclusive character and consensus decision-making of the OSCE needs to be maintained. This means that a renewed OSCE should include Russia. This also means that the OSCE, for the time being, will remain paralyzed as most participating States cannot work with a Russia that started an unprovoked war, is implicated in war crimes, and whose population lives in a parallel universe of aggressive propaganda. *Second*, co-operative security should be the starting point of deliberations in the OSCE. Over time participants can work towards a (re)new(ed) notion of comprehensive security.

Almost half a century after the Helsinki Final Act, war and violent rivalry, largely fueled by authoritarianism and populism, dominate large parts of the OSCE region. Whereas it is difficult now to imagine a more co-operative spirit between and in North America, Europe and Central Asia, there is a possibility that Russia will evolve from an aggressive regional power, unable to step away from its great power status, towards a country that looks to the future instead of dwelling in the past. If such an opportunity would occur, there might as well be renewed interest for comprehensive security, including aspects of democratization. Regardless of EU and NATO development there will be a need for a broad platform to discuss all aspects of security in the OSCE area. The OSCE needs to go back to square one; to its roots as the Conference on Security and Co-operation in Europe where the process of inclusive co-operation is more important than the eventual structure that is concluded. A good new starting point would be 1994 when the CSCE became the OSCE — when dialogue and co-operation became hands-on implementation via institutions and missions.

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After the development of the CSCE during the Cold War, the OSCE, in the 1990s, became a leading platform on security as it built an impressive regime of democracy inspired security co-operation documents and mechanisms while establishing field missions in the Western Balkans, Eastern Europe and Central Asia. The turning point came after the Istanbul Summit of 1999 which was the last occasion for substantial new agreements in the form of a Charter on European Security. Two developments radically changed the further development of the OSCE. First, the European Union became more active in foreign policy and development co-operation towards its neighbors in Eastern Europe and North Africa while NATO's Partnership for Peace program reached out to non-members in the 'East'. The need for the OSCE to be present with missions gradually diminished. Second, in Russia, Vladimir Putin came to power. He concluded that the OSCE would not be the new pan-European security organization replacing NATO. At the same time Russia started building its own narrative of 'managed democracy' and influence in its 'near abroad' through protracted conflicts, military basses, and the creation of Russia-led regional organizations (CSTO and the Eurasian Economic Union). Several other OSCE participating States developed in a similar manner by moving away from post-Soviet and post-communist democratic reform and instead opting for authoritarian rule.

Over the last two decades the OSCE had to idly stand by while its agreements were ignored and its involvement in conflicts avoided. The Organization did evolve by adding issues to its pallet as they became internationally high-profile — combating terrorism, cyber security, environment, and migration — but had difficulty standing out on any of these. The atmosphere was not co-operative as the Organization was torn between democratic countries that initiated and paid versus authoritarian states that obstructed or reluctantly followed to keep up appearances.

Whatever the outcome of the current war in Ukraine, military conflict in Europe and on its borders is likely to persist in this decade as Russia will either be able to ignite conflicts in neighboring countries or will lose influence over nationalist and ethnic processes in neighboring countries and within its own borders. Conflicts in Eastern Europe (Belarus, Transnistria), the Caucasus (Abkhazia, South Ossetia, Nagorno Karabakh or in the North Caucasus) and Central Asia (enclaves of Kyrgyzstan, Tajikistan and Uzbekistan or ethnic tensions in Central Asian countries) could very well ignite or intensify. At the same time, the EU could become more strategic in its approach to its neighborhood although it is unclear if that would be translated into more or less engagement in particular regions. Meanwhile NATO will remain at the core of Euro-Atlantic security. The OSCE seems unable to play an active role

in these processes in the immediate future, or at least as long as the current Russian leadership is in power. What can it strive for then?

One could imagine that the OSCE goes back to its roots as a conference on security co-operation in Europe. One way to do this is decoupling the OSCE decision-making bodies — Ministerial Council, Permanent Council, and the Forum for Security Co-operation plus the Parliamentary Assembly — from the rest of the structures, missions, and bodies. The basic Helsinki accords should remain to serve as a basis but the regime of agreements that was built in the early 1990s would need to be reviewed by participating States both in terms of realistic practicality as well as renewing the process of finding agreement through dialogue. To start over with a conference on security in Europe should be an open-ended process but that keeps the principles of inclusiveness of all current states and decision-making by consensus. The initiative to do this should come from a group of middle size countries that represent the broader OSCE area, so for instance Canada, one or two non-EU West European countries, and a few countries from Eastern Europe, the South Caucasus, and Central Asia. Yes, we would throw away a lot of what was built over the last two decades but could gain an alternative security forum that would better co-exist with the EU and NATO and with initiatives by Russia and China such as the Shanghai Cooperation Organisation.

All the structures, missions and bodies would need to be evaluated by its stakeholders. Some of these are valuable institutions that potentially could play an international role without the OSCE as patron. Others would disappear or (part of) their roles would be absorbed by others (EU, Council of Europe, etc.). In an initial reform stage, all institutions could be kept together under one umbrella while participating States look for new options to accommodate and help reform and fund OSCE structures, missions, and bodies. Structures such as the ODIHR in Warsaw have a specific niche, election monitoring, that is renowned. The ODIHR could probably function independently with structural support by countries that already fund the OSCE through extrabudgetary projects. Its output would not carry the weight of OSCE consensus decision-making anymore, although that did not refrain countries from ignoring the ODIHR reporting before.

Going solo with the backing and funding of the EU, US and other interested countries/organizations might also work for the High Commissioner on National Minorities and the OSCE Representative on Freedom of Media. Another affiliated institution or implementing partner is for instance the OSCE Academy in Kyrgyzstan that brings together talented students from the region as well as the international community around themes of security. They are

already largely functioning with national funding of OSCE participating States; something that can hopefully be expanded with EU funding as the latter seeks to step up education support to Central Asia. Similar avenues could be open to the Border Management Staff College in Dushanbe as well.

The OSCE presences in participating States need to be assessed on a case-by-case basis. Likely most missions could evolve into local NGOs; be linked to an international foundation; become a specific part of an EU mission; or be merged with a UNDP presence. In Bosnia and Herzegovina and in Kosovo this will be a substantial challenge as the OSCE mission employs hundreds of local and international staff and addresses issues that then would need to be taken up by others such as the respective EU missions EUFOR (BiH) and EULEX (Kosovo), UNDP, NATO, and international NGOs. Some knowledge and experience will be lost but so will the regular overlap of activities and projects. Every case will be different. In some places missions might barely be missed as they compete with other local and international actors, while in other places an OSCE office is one of the few international actors present in a country.

It will be difficult to accomplish a complete overhaul of the OSCE as consensus and inclusiveness are the basis of decision-making. Still, participating States should understand that doing nothing could well become counterproductive to security in Europe. Hopefully the OSCE can make a grand new start by going back to its roots of conferencing and stepping away from implementation. Patience is in order as the OSCE can do little in terms of reform as long as war is raging. Still, a start should be made by participating countries in preparing the ground for a new conference on security co-operation in Europe.

ENGAGING, MESSAGING, AND WAITING FOR THE WAR TO END: THE OSCE AND THE RUSSIAN INVASION OF UKRAINE

Jelena Cupać[5] & Michael Zürn[6]

To say something about the OSCE's future amid the Russian invasion of Ukraine, arguably the most severe crisis the Organization has experienced, it is helpful to look briefly at its history. This history, spanning nearly five decades, saw two particularly productive periods. The first one covers its formative years, culminating in 1975 with the adoption of the Helsinki Final Act. The Act is known for introducing one of the most significant conceptual innovations in the security domain: it abandoned the understanding of security relations among states in purely politico-military terms, embedding them instead more firmly in human, economic, and environmental considerations. By encouraging diplomatic exchange on less controversial issues, this new approach to security was instrumental to reducing tensions between the Eastern and Western blocks in the 1970s. However, it did not produce fundamental change. Although the Helsinki Final Act allowed the West to accuse the East of endangering European security by violating human rights, state sovereignty remained the dominant security principle on the continent, rendering these accusations largely ineffective.

Things changed in the early post-Cold War years, which also represented the second most productive period in the CSCE/OSCE's history. By already resting on a rich catalogue of security norms, the CSCE/OSCE was chosen as the most convenient site for reimagining state relations in Europe after the fall of communism. In a series of high-level meetings, participating States thus reinterpreted CSCE/OSCE's normative catalogue in light of victorious Western values of democracy, human rights, and the rule of law. They established that human rights could flourish only in democracies, that only those orders composed of democratic states can be truly peaceful, and that violations of human rights constituted a root cause of conflict and should therefore be a matter of concern to all participating States. The institutionalization of the OSCE followed these conceptual shifts. For example, the Office for Free Elections was established to facilitate democratization processes in Central and Eastern Europe, while the

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Valletta and Moscow Mechanisms were set up to tackle disputes among states and violations of the OSCE's human dimension, respectively.

These two episodes in the CSCE/OSCE's history show that the Organization is at its best either when participating States use it to reduce high-level tensions that have not yet escalated into open conflict or when their values and interests overlap to a large degree. In the absence of these specific conditions, the OSCE has a mixed record. It has contributed significantly to managing small-scale security problems through its field missions and facilitated democratization processes through activities such as election monitoring, promotion of minority rights, and border management. However, it has proven rather weak when faced with gross violations of its fundamental principles and structural changes to European security. As a result, it has not responded effectively to the Russian invasion of Ukraine or adapted to NATO's eastward expansion without objections from some members.

With this historical background in mind, it would be unrealistic to expect the OSCE to be more effective in tackling the war Russia is waging in Ukraine. The obstacle is not only Russia's blatant violation of most if not all of the OSCE's principles enshrined in the Decalogue but also its decision-making power in the Organization.[7] Given that the OSCE decides by consensus, Russia can prevent any measure designed to curb its belligerent actions. Moreover, it can hold the Organization hostage by refusing to vote on other significant matters, such as extending field missions in the Caucasus, the Western Balkans, and Central Asia. The remaining OSCE members are, therefore, faced with a difficult dilemma. They either continue to co-operate with Russia, accepting that, although they can neither prevent nor sanction its wrongdoings, they can at least keep the OSCE afloat and maintain one of the few remaining channels of communication with Russia. Or they deprive Russia of its decision-making powers in the OSCE by evoking the consensus minus one rule, thus making the Organization appear more resolute and righteous but, in effect, undermining its core purpose: to act as a forum for communication between adversaries.

While the second option might seem tempting to OSCE members, especially as the news of Russian atrocities in Ukraine mount by the day, the final decision on what to do with the OSCE

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[7] The Decalogue, another name for the Declaration on Principles Guiding Relations between Participating States, is a part of the 1975 Helsinki Final Act consisting of ten principles that should guide member states' politico-military relations: *sovereign equality, respect for the rights inherent in sovereignty; refraining from the threat or use of force; inviolability of frontiers; territorial integrity of states; peaceful settlement of disputes; non-intervention in internal affairs; respect for human rights and fundamental freedoms including the freedom of thought, conscience, religion or belief; equal rights and self-determination of peoples; co-operation among state; fulfilment in good faith of obligations under international law.*

should be pragmatic, not reactive. This pragmatism should be based on the acceptance that, in the foreseeable future, the OSCE will remain a weak organization. However, this acceptance need not come with a pessimistic outlook on the Organization's future. It is reasonable to expect that, although the OSCE is unlikely to broker peace between Russia and Ukraine, conditions under which the Organization can do its best work will ensue in the war's aftermath. If peace comes with Putin in power, the OSCE can, at the minimum, return to Ukraine and monitor any specific agreement, including ceasefire agreements. It might also help the reconstruction of Ukraine by, for example, helping organize its future elections. If, however, peace comes without Putin in power, the OSCE can once again become the foremost venue for navigating Europe's new security reality. Depending on how the new Russian leadership will look like and what aspirations it will have, the OSCE could be used either to defuse tensions among opponents (as was the case in the 1970s in the context of the détente politics) or, given its rich normative toolbox, it could be turned into a forum for drawing Europe's new collaborative security order (as was the case in the early 1990s).

Accepting that the OSCE will likely remain weak for the time being should also not be understood as implying that it cannot do anything while the war is underway. It can, and it should, explore two areas in particular: security engagement and security messaging. Concerning engagement, it should not be overlooked that many members of the OSCE are neither EU nor NATO members. This implies that, while crafting their containment and deterrence plans against Russia, the EU and NATO must be aware that building their military capabilities will not be enough. Their strategy must also include engaging, in some way, with states and regions that are vulnerable to Russian influence, namely, the Western Balkans, Caucasus, and Central Asia. Not only is the OSCE the only security forum that connects these states with other EU and NATO members, but the OSCE has field missions in many of them, maintaining the fragile peace and working on advancing democracy (or at least slowing down its regression). If the OSCE were allowed to become moribund, these states would almost certainly fall under Russia's more significant influence. Here, one only needs to think about the future of Transnistria, Nagorno-Karabakh, South Ossetia, and Abkhazia. Due to energy and other dependencies, the Western Balkans, Caucasus, and Central Asia countries are already in a difficult situation. Weakening connections with the West would not take them further from Russia; on the contrary.

Containing Russia must also include clear messaging concerning international rules and principles. Assuming that Russia hopes to draw the West into talks about zones of influence,

the West must be adamant that they will not accept any negotiations going in this direction. It must make it clear that under no circumstances, including if Russia gets what it wants in Ukraine, will it talk about European security in these retrograde terms. There is no better forum for this message than the OSCE. Russia must constantly be reminded that principles such as self-determination are not negotiable, nor are other principles from the OSCE's Decalogue. Accordingly, Russia must be made aware that regardless of its "successes" in Ukraine, it will continue to face the problem of recognition and will remain isolated. Here, it is again essential for the West to engage the countries of the Western Balkans, Caucasus, and Central Asia, as they represent geographical regions over which Russia would like to establish the zone of influence. Even if these countries are reluctant to, for example, impose sanctions on Russia, the West could work on co-opting them to become vocal opponents of the notion of zones of influence.

THE FUTURE OF THE OSCE IN THE SHADOW OF RUSSIA'S WAR AGAINST UKRAINE

Matthias Dembinski[8] & Hans-Joachim Spanger[9]

Russia's aggression against Ukraine has not only demolished the European security architecture of the past 30 years, but also shaken up the normative and institutional foundations of the OSCE in a way that has cast doubt on their survival, too. The vision of the 1990 Paris Charter, i.e., the creation of a collective security space on the European continent based on the principles of democracy and the rule of law, was obsolete even before Russia's invasion of Ukraine, which is why we had argued in favor of a new modus vivendi based on a "plural peace". Although both sides had pledged their commitment to the Paris Charter in declaratory statements until just before the outbreak of the war – with the West referencing the freedom of elections and Russia referencing the indivisibility of security – all this is now definitely history. The OSCE thus lacks legitimacy, orientation, and perspective. Moreover, from an institutional point of view, a complete mutual blockade of the two sides appears inevitable. Russia's decision to veto the extension of the observer mission to Ukraine beyond 31 March 2022 is just one example of this.

As such, the OSCE is for all intents and purposes obsolete. Whether it can survive at all as an institution, or whether it is rather in need of being reconstituted under different parameters, will likely depend to a large extent on the further course of the war in Ukraine and its conclusion. This suggests there could be a need for a settlement, which in turn will determine whether and to which extent a modus vivendi between Russia and the West can even be attempted and found.

The continued existence of Russia as a state is in no way contested; the matter is far less clear-cut as far as Ukraine is concerned. Also less clear, however, is the future internal constitution of Russia, which will probably be determined to a considerable degree by the outcome of the war. The same applies to Moscow's Eurasian vector as an alternative to its former European orientation, its increasing emphasis on "Eurasian identity", and its claim to shape the Eurasian space in its own likeness, as seen, for example, in the "Greater Eurasian

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Partnership" proclaimed by President Vladimir Putin in 2016. This is of relevance to the OSCE because the latter's raison d'être will in the future be justified exclusively by the need for regulation east of Helsinki; in the west, NATO and the EU have a near-complete monopoly. Therefore, the OSCE is by definition pointless without the participation of Russia.

Three scenarios

In principle, three scenarios can be envisaged for the outcome of the war in Ukraine: A Russian victory, a Ukrainian victory, or a ceasefire that may have various different facets, but must in any case be predicated on an agreement reached between equals. In view of the historical background of the war and how it has progressed, all three scenarios will likely have a common outcome, with only gradual differences: a relationship between Russia and the West that is marked, in the middle term and possibly also in the long term, by confrontation, deep distrust, resentment, and probably also revanchism.

A Russian victory would mean that Ukraine in its current form would cease to exist, for the foreseeable future, as an independent state – whether through the installation of a quisling regime in Kyiv, or through a partition of the country, or through (de-facto) annexation of significant parts of its territory. Under such circumstances, a continued engagement with Russia in the framework of the OSCE would be unthinkable – the organization would have to be dissolved. For the Nazism that Russia pretends to be eradicating in Ukraine has taken deep roots in Moscow itself – including borrowings from *völkisch* ideology, geopolitical fantasies of spatial reordering, numerous antisemitic aberrations, imperial gestures, and brutal projection of military power. These would become further entrenched by a Russian victory. The West has responded to these ambitions with comprehensive political-economic isolation and military deterrence of Russia, and is unlikely to diverge from that course as long as the premises outlined above persist – just as Russia, conversely, will continue its eastward and southward reorientation for lack of better alternatives.

In the case of a victory for Ukraine, which would consist of Russia being pushed back behind its borders (though, given the current state of affairs and despite Ukrainian proclamations during the course of the war, hardly including the reconquest of Crimea), the West could have a continued interest in preserving the OSCE, but whether Russia would have a similar interest would depend largely on the domestic response to such a defeat. In such a scenario, many outcomes beyond Putinism are conceivable, of which a new attempt at democratization and a reactivation of a pro-Western orientation is not the likeliest one. In any case, from the Western

point of view, Vladimir Putin and his cronies deserve a place in the dock of an international tribunal, not a seat at a negotiation table.

Ceasefire – a window of opportunity?

The third remaining scenario is a ceasefire, which would become a viable option once the exhaustion on both sides outweighs the belief in the ability to achieve the above-mentioned goals by military means. Given the course of the war so far, this could certainly still be months away. It is nearly impossible to assess the potential response within Russia to a ceasefire agreed on equal footing with Ukraine. This could further incite the radicalism of the regime, but would also offer the chance to blunt its imperial attitude and bring about political moderation. What is patently obvious, however, is that a ceasefire based on a military impasse would hardly satisfy either side and would be assessed as highly inequitable by the general public in both countries, given the great sacrifices and costs of the war. Accordingly, it would be quite fragile. The challenge would be to stabilize such a precarious ceasefire along the line of demarcation and defend it against "spoilers". Presumably, in the case of a ceasefire, such a line of contact would still run through Ukrainian territory, raising the question of the status of Russian-occupied areas. In the case of the 2015 Minsk Agreement, designed to manage the Donbass conflict, the Normandy contact group (with the participation of Germany and France) had de-facto imposed upon Ukraine a catalog of tasks whose implementation would have meant political suicide for Kyiv. This mistake must not be repeated.

Thus, the conclusion of a ceasefire implies the need for a settlement, which in principle comes under the purview of the OSCE and could potentially generate a shared interest in problem-solving within the organization. However, one question to consider would be whether a peacekeeping mission along the future ceasefire line between Russia and Ukraine would not need to be made more robust and whether the OSCE would have comparative advantages in organizing such a mission, i.e., whether it would enjoy more freedom of action, and higher credibility in the eyes of both parties to the conflict, than the United Nations.

Assuming that a ceasefire can be arranged and then collectively stabilized, it is also conceivable that, with a view to European security, a mutual interest could evolve in setting up guardrails in the confrontation between Russia and the West. These would serve to minimize the dangers of an unwanted escalation and protect public goods such as a functioning internet or access to and usage of near-Earth space. This would be one precondition for slowly returning the confrontation to a state of coexistence.

In order to be able to play a constructive role along this narrow corridor, the OSCE would need to undergo a fundamental institutional reform. In an <u>autumn 2021 contribution to OSCE Insights</u>, and amidst the normative heterogeneity that had manifested itself in the OSCE space at least since 2014, we had argued in favor of rethinking the OSCE's tasks and its institutional makeup. It was important, we argued, either to limit the OSCE's tasks to the few areas of overlapping interests such as peacekeeping (in the post-Soviet space) or to shut down its operative functions and convert it into a consultation forum that also allows the participating states to sound out commonalities and pragmatic compromises in informal dialog situations.

In view of Russia's aggression against Ukraine, we see a need for even further-reaching adaptation. Instead of strictly adhering to the three dimensions in what is essentially just path dependency, the OSCE should be realigned institutionally to become a negotiating forum on the above-mentioned guardrails and for the development of co-existence principles. A conference of states, analogous to the 1975 Conference on Security and Cooperation, would be better able to develop such fundamental principles compared to what could be achieved through routinized negotiations in the framework of the OSCE's existing bodies. However, both in the short term and, depending on the outcome of the Ukraine war, in the middle term as well, the political climate is hardly ripe for such a conference today.

THE OSCE: INJURED BUT SAVEABLE

Rick Fawn[10]

Of course, the OSCE area and its value system was set ablaze on 24 February 2022. As monstrous as the Russian attack on Ukraine was, as well as the assault on this decades-old collective security system, that onslaught must not also destroy the OSCE. The contention here is that existing institutions, though challenged, are and will be more necessary. Other options are unavailable and any replacements would be long-in-the-making and still not as effective. This contribution outlines five reasons that first establish why; then ways forward are offered.

Enthusiasm amid flames derives not from naivety. After all, the League of Nations was only formally disbanded in 1946, having both failed to prevent the Second World War and even to retain the membership of the revisionist, aggressive states in Europe.

First, to its credit the OSCE worked better than the League of Nations through consensus, granting de facto vetoes to all participating States. There may well have been other times when participating States would have otherwise withdrawn. The Organization continues to provide international forums for documentation and condemnation of Russian aggression, and without costing the international community still more. At worst, let the OSCE continue, even if in temporary decision-making paralysis. The price of the OSCE's retention now outweighs any future costs to recreate anything similar.

Second, accountability and shaming have been part of the OSCE's lifeblood. That gives value to each party, and the former ensures enunciation of political positions and potential for off-record, discrete discussions. If such is not happening, it should. And in crisis these forums become fewer.

The OSCE, especially the Permanent Council, has allowed for rhetorical counter-accusations by Moscow and others against the system; that has been an economical means to retain this invaluable system. Revisionist states may feel even more frustrated by making their case through the OSCE, but they continue to do so. While the Russian Federation exempted itself from sessions addressed to its military build-up around Ukraine in January and February 2022,

it returned in March 2022 to invoke an inverse commemorative statement on the anniversary of NATO's 1999 bombing of Serbia/Kosovo. Such opportunity, regardless of whether it is malignant, exposes the violator to international scrutiny and condemnation. Ukrainians want the world to know of their plight – the OSCE remains an important facilitator.

Third, the OSCE cannot and should not be about any single participating State, no matter how big, or adherent to, or indeed corrosive it is of the Organization's principles. The OSCE embraces countries that would otherwise be outside this type of system, or indeed ones with substantial numbers of democracies. True, the three South Caucasus countries are less of a case, with all in-country missions closed and only the Special Representative for the Karabakh conflict remaining, and likely overshadowed by EU-brokered Armenian-Azerbaijani meetings. Two other regions nevertheless ache for the OSCE.

The first is Central Asia. It may be that Russia's new behaviour impacts on those countries. And, to be sure, OSCE field missions have had their mandates slimmed in this region to narrow the human dimension. Nevertheless these missions should be supported, and that vital on-the-ground support should continue for societal actors who may become even more beleaguered. Depriving them, depriving all of us, of such efforts would be a further, lamentable concession to current aggression. Central Asian states should welcome international presence after Russian aggression in fraternal post-Soviet Ukraine.

The OSCE continues to collaborate and provide unique work in the Western Balkans. Unlike Central Asia, these countries have wider Western-international engagement, not least as countries engaging in possible accession to the European Union. But they, and also wider OSCE activities, should not be derailed.

Fourth, we know better now than in 1975 how the "Helsinki Effect" would prove cumulative and long-term. Its "Third Basket," human rights, looked initially counterproductive: the very people who were meant to be aided by it suffered more *after* its signing. Czechoslovakia's Charter 77 signatories in the late 1970s or Polish Solidarity activists in the early 1980s were tossed into jail on trumped up charges after Helsinki. Surely their experiences count; catapulted to power in the early 1990s those former dissidents became ardent advocates for exactly these values and this very system. Would they, who suffered, let the OSCE fade now? The support that the OSCE offers to civil society is essential in itself, and buttresses a fifth reason.

The events on and after 24 February furnished yet more evidence of the pernicious correlation between domestic autocracy, including the repression of media and civil society, and

propensity to war. If we ever needed it said: democracy matters. Open, transparent elections matter. And the number of states holding them are decreasing. For approaching two decades, Russia led some states in attacking the ODIHR – what Western countries call the world "gold standard" for election observation. We need this more – not less. That full election observation missions have been deployed recently to EU states is only good – to where only limited missions had gone in recent years, and where none went at all before 2002. These practices are needed across the OSCE. The cost of a solitary election observer mission likely tallies less than rebuilding one apartment block – let alone the irreplaceability of lives.

With the briefest defence of the OSCE offered, what consequences and necessities are there in this crisis for the OSCE's structure and functionality? Not even its occasional consensus minus one measure will work, when it did against Yugoslavia. Belarus certainly, perhaps others, would torpedo measures against Russia or modifications of OSCE consensus.

Here experimentation with adaptation is necessary. Take but two forms: voting and funding. Test the water. See if a new voting mechanism can be tried, in exceptional circumstances, much like the Vienna/Moscow mechanism has been previously. Indeed, countries called for it to be invoked against Russia when the Chairperson-in-Office addressed the UN Security Council. If Russia absents itself from OSCE structures, fine. If we need consensus minus two, try for it. Leave Russia's chair empty, perhaps to be filled by a regime that recommits to OSCE values.

Next: funds. Passage of the OSCE's budget in the mid-2000s was held hostage to political infighting. Participating States can make extrabudgetary, voluntary contributions. True, field operations in the OSCE's name require consensus. But in the necessary spirit of reformulating consensus because of outright war, field-mission funding should be done differently. The time before their annual renewal provides months for reconsideration. More important is the consideration of the relative costs of war. The 2021 budget for the OSCE Centre in Ashgabat was €1,661,200 – that is just 10 Javelin launch and missile systems. In war, the OSCE's value-for-money has never been greater. If countries block the unified budget, go bigger, much bigger, on extrabudgetary measures.

Retaining the OSCE and trying adaptations are vital antidotes to the scourge inflicted on its area. The OSCE is for the long-term; it was born in and of great power confrontation; the OSCE needs to and can endure the current conflagration.

THE OSCE — ADDED VALUE IN TIMES OF STRONGEST CONTESTATION

Andrea Gawrich[11]

In these days, May 2022, we are in a kind of vacuum situation, in which we do not know about Russia's strategy towards the OSCE. Russia's allies or friends do not allow for the application of the consensus minus one or consensus minus two mechanism to deprive it from its participation rights within the OSCE. Consequently, there is no risk for Russia to become expelled from the OSCE. Currently, we can only speculate that Russia will assumingly not be leaving the OSCE on its own initiative. This is because there is a fundamental difference between Russia leaving the UN Human Rights Council and the Council of Europe and its placement within the OSCE. As both international institutions took their decisions on either terminating Russia's membership or putting it on hold, Russia pre-emptively left those international institutions. However, the situation within the OSCE is not only different in terms of unanimity voting requirements. If Russia remains in the OSCE, it is also related to the fact that Russia perceives itself very much as the successor state of the Soviet Union, which had been a substantial actor in the OSCE's predecessor organization, the Conference on Security and Cooperation in Europe (CSCE) during the Cold War. Hence, leaving the OSCE would also mean for Russia moving away from its (so perceived) own foreign policy-related heritage and history. Leaving the OSCE would imply that Russia, in its own understanding, could be seen as less reliable and less co-operative than the Soviet Union had been during and since the mid-1970s through being part of the Helsinki Process. This could be perceived as moving away from commitments which, at least on paper, have been acknowledged already by the Soviet Union within the CSCE. Hence, being a participating State of the OSCE is a huge difference from being a member of the Council of Europe (CoE) from Russia's perspective, as Russia joined the CoE "only" during the 1990s and this organization furthermore had been seen as a "club of western states" prior to 1989.

A substantial understanding of political priorities towards Russia within the OSCE's participating States should include the voting result in the UN General Assembly to condemn the Russian war of aggression on Ukraine in early March 2022. Those results show that out of the 57 OSCE participating States within the General Assembly, 47 voted in favor of Russia's

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condemnation, five OSCE countries decided to abstain (Armenia, Kazakhstan, Kyrgyzstan, Mongolia, Tajikistan) and three states decided to stay away from the vote in order to avoid the dilemma of, either with abstention or with dissenting votes, showing some loyalty towards Russia (Azerbaijan, Turkmenistan, Uzbekistan). Hence, if Russia would leave the OSCE, it would leave a number of allies and co-operation partners within this regional organization behind. This, again, is a huge difference to the Council of Europe, where Russia's close co-operation partners and allies are limited to Azerbaijan and Armenia.

After putting the reasonable assumption that Russia will not be leaving the OSCE as a starting point, the next step is to estimate what exactly can and will assumingly be blocked by Russia within the OSCE in the short and medium term. It is highly plausible that Russia intends to apply multiple veto options in various fields of co-operation within the OSCE. Bringing the OSCE Special Monitoring Mission (SMM) in Ukraine to an end has been the first evident step. Assumingly this might similarly be the case for the OSCE Project Co-ordinator in Ukraine, representing an impressive longstanding activity of the OSCE in Ukraine, which already endured several attempts to close it. In addition, urgent decisions on the OSCE budget 2023 and on the decision of the OSCE Chairmanship 2024 are on the table, and the level of Russian blockade can only be speculated about.

Generally, it should not be overlooked that the OSCE has repeatedly witnessed times in which it was considered irrelevant and obsolete. However, the OSCE could prove to reach for renewed relevance after such phases again. We should remember that, as one example, the OSCE reacted rather weakly in the acute crisis of the early phase of the Balkan wars. However, it could play out its strength in long-term engagement of promoting reconciliation and supporting post-conflict orders as the OSCE did throughout its large missions in the Balkan region.

One of the OSCE's major shortcomings relates to the fact that the various groups of states have different and in part contradictory images of what the OSCE should be and could provide to them. The OSCE has permanently been in search for its role, while trying not to be reduced as some sort of service provider for the UN (and during certain periods even to the EU). Since the Orange Revolution 2004, the Russian-Georgian war 2008, the annexation of Crimea and the start of the war in Eastern Ukraine in 2014, the OSCE has experienced a persistent institutional crisis and increased contestation from inside. However, it managed to fulfil at least parts of its function until today, Spring 2022, despite these severe clashes and conflicts.

What is paradoxical is that, from a bird's eye perspective, the OSCE has at its disposal fundamental preconditions to mediate this war as both warring parties belong here and — if we are inclined to the argument that the war in Ukraine is also a kind of proxy war — all the proxies of this war belong to the OSCE as well, i.e. the USA, NATO as well as EU states.

Despite this, the OSCE since February 24 2022 has lost its quality of a security organization. What we see today is a hollow copy, a mere façade of a security organization, as the OSCE has fundamentally failed to prevent this full-fledged war in Ukraine, which, in fact, was started based on the political ambition by Russia to erase Ukraine as a sovereign state from the global map of countries. No greater failure of any security organization worldwide is more conceivable than this.

Despite this fundamental failure that the OSCE has not been able to prevent this war, we should not fully overlook that it at least partially contributed to conflict containment for a period of eight years, 2014 to 2022, through providing an umbrella for the Minsk Agreement negotiations and through keeping up its largest monitoring mission, the Special Monitoring Mission (SMM), in Ukraine (plus the border missions). During this time, Ukraine developed its defense capabilities and improved its political governance structures.

As the OSCE looks back to the last eight years as a phase, which was already marked by fundamental antagonism between the vast majority of its participating States and Russia (plus its close allies) related to the annexation of Crimea and the war in Eastern Ukraine, it has, nevertheless, been able to continue to keep up its institutional design and most of its on-the-ground activities in the post-Soviet and post-socialist space, although weakened and marked by Russian blockade attempts in various areas, especially related to the OSCE's HDIM. The OSCE's survival, however, has been possible due to the fact that it lacks a constitutive legal act under international law, hence its decisions taken are politically but not legally binding.

Despite the fact that the OSCE failed to provide security to all of its participating States, it is, in these times of maximum confrontation, of value as an international platform to ongoingly shed light on violations of international law, to support future attempts to provide international criminal justice and to keep up co-operation, especially with all those states which perceive themselves as dependent on Russia or are close allies of Russia inside the OSCE.

Within this context, the unique Moscow Mechanism, evoked on March 3 2022 by 45 OSCE participating States, resulting in a 110-page report, detailing a shocking amount of Russian war crimes in Ukraine and presented within the OSCE institutions, helped to gain global

visibility of the atrocities during this war. Similarly, institutions like e.g. the OSCE Representative on Freedom of the Media, which documents Russia's norm violations in these times of contestation in its 25th anniversary report, are important to shape international discourse. This is also true for the OSCE parliamentary assembly, which contributes to keeping the war on the international agenda from the parliamentary perspective, while spreading knowledge of the war within a huge number of parliaments worldwide. Furthermore, the permanent diplomatic channel within the Permanent Council and other OSCE formats provide habitual dialogue formats on a diplomatic level with Russia, which allow for naming and shaming mechanisms within everyday exchange. Beside the UN Security Council, the OSCE is now an essential remaining platform for diplomatic exchange between the war parties and those states, being part of Russia's proxy-related orientation (hence, the members of NATO and the EU). Furthermore, Russia's (and its allies') expected future vetoes on a number of co-operative fields inside the OSCE can be made visible to the global audience through interpretative statements by other countries.

Even though it is very likely that the OSCE will be paralyzed in a number of its fields of activity and even though the OSCE would need to find creative ways to keep up some of its functions despite Russia's (and its allies') expected vetoes, the OSCE is basically able to survive in such a crisis mode. This survival will assumingly heavily rely on those tracks of activity, which can be kept up while circumventing consensus voting requirements (e.g. through extrabudgetary funds).

WILL THE OSCE SURVIVE?

William H. Hill[12]

In late 2021 this question might have seemed outlandish to senior European diplomats pondering whether and where to hold a summit in 2025 to mark the 50th anniversary of adoption of the Final Act. Now, as the Euro-Atlantic security order has been shaken by Russia's war with Ukraine, many of these same diplomats wonder how any institution dedicated to security and co-operation can include the Russian Federation as a member. There have been wars between OSCE participating States before, in particular in the Balkans and the South Caucasus in the 1990s. However, there has not been a war of this scope between two of the largest states of Europe since World War II, and certainly never in the half-century history of the CSCE/OSCE. Against this background, many political leaders are asking why it makes any sense to support a human rights institution with Russia in it, when Moscow is violating most of its commitments to that organization. At best, some suggest keeping the OSCE but kicking Russia out. While that idea is a non-starter, the sentiment does suggest a bleak future for an organization aiming to foster co-operation between the states of Europe and North America, including Russia.

The OSCE may have a future, and some possible utility, although it would be foolhardy to try to deny the severe challenges the Organization faces merely to survive, let alone to promote meaningful dialogue and constructive action. The crucial factor in the OSCE's genesis and importance was provision of an ongoing negotiating forum in which participating States could pursue some of their most important security, diplomatic, and political aims. The Final Act, the Charter of Paris, and the CFE Treaty reflect achievement of such aims by all of the CSCE states.

During the 1990s, the CSCE/OSCE continued to be a forum for broad political and security dialogues, while establishing standing bodies for regular debate. The initiation and expansion of OSCE operations, such as field missions and election observation, added to the institution's continuing normative activity and constituted an enormous expansion of the scope and reach of the Organization. From the very beginning the Helsinki process involved a limited

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relinquishment of national sovereignty by each participating State through the admission that other states have a legitimate right to observe and question their domestic behavior. With ODIHR election observation, visits by the HCNM and staff, and the activities of the field missions, after 1990 this process of voluntary limitation or sharing of sovereignty expanded dramatically. Initially almost all of the participating States considered this process to be a good thing. However, some participating states — most notably Russia — gradually came to perceive many of these OSCE operations as tools for geopolitical advantage of some other participating States.

The CSCE documents adopted in the early 1990s — the Charter of Paris, the Copenhagen Document, the Vienna Document, and the Challenges of Change — reflected an extraordinary degree of consensus among all of the participating States. However, well before the emergence of today's confrontation between Russia and the US, NATO, and the EU, during the 1990s different visions of the European security architecture emerged between Moscow and its major western interlocutors. To oversimplify considerably, Russian leaders wanted the OSCE to be the central, or supreme security institution in Europe, governed by a small UN-type security council of the major powers, including the US and Russia. The US and most of the major European powers were prepared to have the OSCE assume important tasks, but focused on either NATO or the EU (or both) as Europe's leading political and security actors. This debate over Europe's security architecture and the role of the OSCE continued through most of the 1990s and culminated at the 1999 OSCE Istanbul Summit. Landmark agreements were reached at Istanbul, but were never fully or successfully implemented, to Moscow's increasingly vocal dismay.

After 2000, NATO and EU expansion, combined with other political, economic, and security developments and events, produced a situation in Europe in which key security and political issues were debated and decided mostly in Brussels and Washington, and not anywhere near as often in Vienna. In my book *No Place for Russia* I chronicle in much greater detail the growth and development of NATO and the EU, and Moscow's increasing disillusionment with the OSCE after 2001-2002, all of which produced the resultant difficulty for the Organization to reach consensus and produce significant results on important questions.

This process eventually produced a Russia which is now alienated from most of its European partners, resentful, suspicious, unco-operative, and belligerent. Europe is once again divided between east and west, with the line of separation much further to the east than when the Cold War ended over 30 years ago. Even worse, there is a major war raging between Russia and

its largest European neighbor. I argue that this result was largely unintended by the West, and that there was no one event or policy one can point to that produced it. However, whatever one may judge to be the causes of this sad and dangerous situation, the major issue now should be how one might emerge from this crisis without an even broader war and reconstruct a European security system so that it does not happen again.

Given Russia's unprovoked attack and continuing military assault on Ukraine, many western leaders and international experts find it hard to imagine an international organization dedicated to security and co-operation which includes the Russian Federation. Nevertheless, history suggests that at some point, perhaps sooner than many might expect, states from Europe and North America will find it necessary, if not desirable, to engage seriously and substantively with Russia once again. For example, less than four years after the Soviet suppression of the "Prague spring", in 1972 the US and the USSR signed the ABM and SALT accords. The multilateral negotiations which led to the Final Act began a year later. Notwithstanding the intense hostility that the Russian invasion and war against Ukraine has aroused, it is still not out of the question to imagine how and when a broader political dialogue with Russia might resume.

What role might the OSCE play in this process? Given Russia's current violation of many of the most basic OSCE commitments adopted over the past four decades, can one reasonably expect the OSCE to survive and to play any role whatsoever? I believe the answer lies in the history of the Organization. The CSCE began, and the OSCE still is at its most fundamental level, as a forum for political dialogue that includes all of the states of Europe, two major North American states, and the five former Soviet Central Asian states. If the OSCE will not be the venue for an eventual pan-European political dialogue that includes Russia, then an institution with a similar membership will have to be invented.

However, the OSCE will not be able to just pick up where it left off before the Russia-Ukraine war; the European security and political landscape in 2022 is very different from that which faced the diplomats embarking on European security negotiations in Geneva in 1973. From 1973 until 1990-1991, there were three basic groups of participating States within the CSCE: NATO, the Warsaw Pact, and the NNA (Neutral and Non-aligned states). Today both NATO and the EU include a much larger percentage of the participating States than before 1991. Their memberships also overlap significantly, although not entirely. The number of neutral and non-aligned states in the OSCE today is much smaller. The number of participating States

aligned with Russia is so small that Russia is severely outnumbered when either the EU or NATO has decided on a group position.

Finally, sometimes NATO or the EU will simply take and implement decisions without bringing them to the OSCE. Most prominently, this occurred with the NATO decision to go to war against Serbia-Montenegro in March 1999, and the decision to recognize Kosovo's independence in 2008. Moscow was angered not only by the substance of these decisions, but by the fact that NATO and the EU were able to take and implement them over explicit, vocal opposition from Russia.

Given these changes in the European security architecture, there has been increasingly less incentive for Moscow to bring important issues before the OSCE. Russians have sometimes argued they have a better chance of influencing NATO and EU behavior by engaging early on in bilateral NATO-Russia or EU-Russia negotiations. Another path that may seem attractive to Moscow would be to attempt to split or disrupt the two blocs, an approach which has been increasingly evident over the past decade.

In order to survive as a useful institution, the OSCE first of all must engage in what it was originally established to do — political dialogue on issues of interest and importance to all the states of Europe. There may be fewer such issues in 2022 than there were in 1973, but there are still some. Before its unprovoked attack on Ukraine on February 24, Russia raised some legitimate points for discussion among all of Europe's states amidst the two-month diplomatic barrage of otherwise unacceptable proposals to the US, NATO, and the rest of Europe. Once the fighting has stopped in Ukraine and a reasonable settlement (even if only interim) is reached, OSCE participating States might resume discussion of some of these points.

The OSCE should also serve as a venue for serious discussion of conventional military security, especially questions related to confidence building and transparency. The latest Vienna Document (VDOC) and the Adapted CFE Treaty (ACFE) are both based largely on conventional weapons, equipment, and capabilities which are considerably outdated if not obsolete. The VDOC desperately needs to be updated and discussions need to begin on how to build confidence and transparency in light of the composition and capabilities of present-day conventional militaries. Rules of the road and standards of conduct need to be established for new domains, capabilities, and challenges that simply did not exist when most of the OSCE's basic documents were adopted. For example, think cyber, social media, space, and climate change, to name just a few. Many of these issues will be addressed globally within the UN, but

there still may be room for discussion by the OSCE participating States of what might be agreed and done on a regional basis.

There are the established structures and *acquis* of the OSCE — the CPC, field missions, ODIHR, HCNM, FoM, and a host of important normative documents. I believe that these structures and commitments should not be abandoned, but participating States and individuals dedicated to the OSCE will need to accept that, given the severe lack of consensus among the participating States, these institutions will necessarily be less active and less ambitious. Their budgets and size will probably shrink.

Finally, we will face a prolonged period in which many important OSCE documents and commitments will be honored more in the breach than by rigorous observance. This does not need to be a disaster. The Universal Declaration of Human Rights has been egregiously violated by many states and leaders since it was first adopted in 1949, but it still represents the landmark standard toward which we all aspire. The same can and should be the case with the Final Act, Charter of Paris, and other normative OSCE documents. These commitments and norms do not vanish simply because they have been violated; rather we need to re-dedicate ourselves to their relevance and fulfillment.

The OSCE has an important anniversary coming up in 2025. To do something special for this jubilee, we do not need to revise the Helsinki decalogue. Instead, an OSCE-endorsed Russia-Ukraine peace deal, along with security guarantees agreed and offered by select participating States, might include a re-dedication by all participating States to achieving better observance of OSCE principles. The Russia-Ukraine war and its aftermath are among the most critical security issues facing Europe today. By helping to address and resolve these issues, basic tasks that must be done somehow and somewhere, the OSCE might make itself important and relevant once again.

REINVENTING THE OSCE AFTER THE RUSSIAN WAR IN UKRAINE

P. Terrence Hopmann[13,14]

The CSCE/OSCE has, for almost 50 years, represented a unique experiment in world history by creating a co-operative security institution that managed to maintain relative peace among its participating States after the Helsinki Final Act was signed in the midst of the Cold War in 1975, including all NATO, WTO, and most neutral/non-aligned states of Europe and North America from "Vancouver to Vladivostok". Even in the midst of the Cold War, the Helsinki Final Act set forth a series of important normative principles in the Decalogue that were accepted by all 35 participating States. These included *inter alia* respect for sovereignty and territorial integrity of all participating States within their internationally recognized borders, the inviolability of frontiers, the prohibition of the threat or use of force by any participating State against another, the peaceful settlement of disputes, and respect for human rights and fundamental freedoms. In short, under the Final Act, no changes in state borders within the CSCE region should be made without the consent of all parties involved.

Throughout its history the CSCE/OSCE has survived numerous crises and political changes within its region in large part due to the "consensus rule" (as well as the "consensus minus one" principle invoked in 1992) that enabled it to maintain a basic, if sometimes partial, observance of co-operative security within this region. Like the veto power granted to the "Permanent Five" (P5) in the United Nations Security Council, the consensus rule has provided assurance to all participating States that their vital interests could not be undermined by decisions of the Council of Ministers or the Permanent Council that threatened their fundamental security interests. In fact, this consensus rule is far broader than the veto power granted to the P5 in the UN because it applies to all participating States, large and small. In practice this came to mean that the Chairperson-in-Office could shape a consensus among the major groupings, namely the European Union, the United States, and the Soviet

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Union/Russian Federation, as long as none of these major political centers strongly opposed the proposed decisions. As with the UN Security Council, the consensus rule was intended to serve as a safety valve to protect the institution from collapsing if confronted with a serious dispute among the participating States, especially one that challenged the fundamental agreed norms that constitute the collective *acquis* of the OSCE. Indeed, it successfully fulfilled that role prior to the events of 2022. However, after the unprovoked Russian invasion of Ukraine beginning in February 2022, the issue before the OSCE is how to identify the threshold beyond which action by one participating State against another so significantly violates the most fundamental norms and agreements constructed in the 50 years since the Helsinki negotiations opened in 1973 that the institution's foundational *raison d'être* is called into question.

During the Cold War years from 1975-1989, the absence of consensus between the NATO/EU states and the WTO states meant that the Review Conferences in Madrid, Belgrade, and Vienna largely debated general principles, especially regarding human rights, and only in the Vienna Review Conference as the Cold War was dissolving were any significant decisions adopted by consensus. However, in 1990 with the Charter of Paris the CSCE began adopting a series of documents that extended the Helsinki Final Act into the post-Cold War world. The Charter of Paris responded to the collapse of communist regimes in Central Europe and of the Warsaw Treaty Organization, including *inter alia* a provision that recognized "the freedom of States to choose their own security arrangements" in a new Europe "whole and free". Furthermore, it began the process of institutionalizing the CSCE, including especially the creation of the Conflict Prevention Centre in Vienna, designed to work pro-actively to prevent the outbreak of violent conflicts and to promote the peaceful resolution of any conflicts that turned violent. In 1991 the "Berlin Mechanism" was adopted "for consultation and co-operation with regard to emergency situations", but unfortunately it has never been invoked.

The Helsinki Summit in 1992 expanded CSCE structures, including the Forum for Security Co-operation and the office of the High Commissioner on National Minorities. At that time, the CSCE also confronted its first major crises with the widespread outbreak of violence throughout the Balkans. In response to the actions of rump Yugoslavia (i.e., Serbia-Montenegro) in violation of CSCE norms in Croatia and Bosnia-Herzegovina (and subsequently in Kosovo), Yugoslavia was suspended from participation in CSCE meetings and functions, a suspension that lasted until 2000. This action, based on the "consensus minus one" principle, was the first

and only time to date that such strong action was taken against a participating state and can "only be used in clear cases of gross and uncorrected violations of CSCE commitments".

At the Budapest Summit in 1994 the CSCE was formally transformed into the Organization for Security and Co-operation in Europe (OSCE), in recognition that it had become institutionalized over the preceding five years, in contrast to its previous role during the Cold War as a series of conferences with no formal organizational structures. Also, at that Summit in 1994, Ukraine, the Russian Federation, and the United States (later joined by France and the United Kingdom) signed the "Budapest Memorandum", in which Ukraine agreed to return long-range missiles and their nuclear warheads stationed on its territory during the Cold War (with operational control still residing in Moscow) to Russia to be dismantled with assistance from the United States. In exchange, the Russian Federation and Ukraine agreed to refrain from threats or use of economic or military force against each other (and against Belarus and Kazakhstan which also gave up nuclear weapons on their territory) and acknowledged the sovereignty of Ukraine over the full territory of the previous Ukrainian "union republic" within the USSR. The parties agreed never to use nuclear weapons against one another, and that any violation of this agreement would be referred to the UN Security Council. The United States offered "security assurances" to Ukraine in case of aggression against it, utilizing the UN Security Council as the mechanism to manage any violation of Ukraine's sovereignty.[15]

In spite of all of these provisions, Russia's behavior in Ukraine has over the past decade fundamentally disregarded virtually all of the norms governing behavior among participating States and mechanisms for resolving conflicts. In spite of the valiant efforts of the OSCE High Commission on National Minorities, the late Max van der Stoel, to promote autonomy for Crimea (and an additional layer of autonomy for its Tatar minority) within the Ukrainian state, culminating in agreements in 1996, Russia annexed Crimea in 2014 in clear violation of that agreement as well as virtually all prior commitments regarding respect for Ukraine's territorial integrity within its former borders as a "union republic" within the USSR. In spite of signing the Minsk accords in 2015 that provided a framework for resolving the violent conflict in eastern regions of the Donetsk and Luhansk *oblasts,* Russia consistently undermined the implementation of the ceasefire agreement, even while supporting the OSCE's Special Monitoring Mission in the region reporting on the daily large-scale violations of that agreement. Shortly before their invasion in 2022, they also vetoed the continued presence of the OSCE

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[15] Ukraine did take the issue of Russia's aggression to the UN Security Council in February 2022, but Russia vetoed any proposed action; however, Russia was subsequently suspended from the UN Human Rights Council as a consequence of its human rights violations in its war in Ukraine.

border monitors on the frontier between Russia and the breakaway regions in eastern Ukraine. Yet all of these violations pale in comparison to the massive invasion launched by Russia in February 2022, in clear violation not only of OSCE principles and agreements, but also of the United Nations Charter, the Hague and Geneva Conventions on the laws of war, and possibly of the Genocide Convention if the eventual investigation of Russian war crimes confirms what many observers believe to have occurred at the hands of the Russian military in this war. Finally, they have violated their own commitments to the OSCE by detaining former local staff in Donetsk and Luhansk of the OSCE Special Monitoring Mission in Ukraine for performance of their duties under an OSCE mandate authorized by all participating States, including the Russian Federation.

If the violations of CSCE principles by Serbia-Montenegro in 1992 merited their suspension from the CSCE for a period of eight years, then Russia's recent violations of those norms and agreements, including those applying specifically to Russian-Ukrainian relations, would seem to deserve a similar or greater response. It is clear that the OSCE cannot be effective in any important way in this war with Russia as a full participating State. Many voices have called for dismissing Russia from the OSCE altogether, but this would prevent the OSCE from playing any useful role in facilitating an agreement to end this war or, perhaps even more importantly, from assisting in the implementation of whatever agreement brings this war to an end, as must occur at some point in the future. Suspension rather than dismissal at least provides an option for restoring Russia's participation whenever that might appear to be feasible or necessary to bring this war to an end. In the event that this war leads to a change of government in Moscow brought about by the Russian people in response to the Putin regime's many mistakes in this war against Ukraine, however unlikely that may be, it would be even more important to reintegrate Russia back into the OSCE structures as rapidly as possible. Full dismissal of Russia from the OSCE would work against these goals in ways that suspension, due to its contingent nature, could be reversed to facilitate Russia's renewed participation.

That said, the process for suspending Russia is likely to be more complex than was the case for Serbia-Montenegro in 1992. That action was taken using the "consensus minus one" principle, which is unlikely to apply in the case of Russia's aggression against an OSCE participating State in 2022; several other participating States are likely to join with Russia in opposing its suspension, thereby requiring a "super majority" decision of some form, but likely one less restrictive than "consensus minus one." That, in turn, would likely require a modification of the OSCE's decision rules, which itself might require a "consensus" decision.

Whatever is decided in this case, it is clear that the OSCE cannot be the same institution after 2022 that it has been heretofore. When it arrives at the 50th anniversary of the opening of the Helsinki process in 2023, the OSCE will have to reinvent itself as an institution, with or without Russian participation. These events clearly constitute a watershed moment in its history, comparable only to the events of 1989-91 that spurred its reinvention from the CSCE to the present day OSCE. Beginning with the late 1980s through to the OSCE Istanbul Summit of 1999, the OSCE emerged as the potential foundation for a liberal, co-operative international regime in the large Euro-Atlantic region. Although far from the "end of history", within this region developments seemed to presage a new regional order based on the shared principles of the "democratic peace" and "co-operative security". With the turn of the millennium, however, this system has eroded, slowly at first, but with an abrupt end coming in 2022 with the largest and most violent war in Europe since World War II. A combination of frequent low levels of public support for the OSCE in many participating States, the reluctance of some governments to make hard choices even in the midst of clear violations of OSCE principles, as well as an OSCE decision structure based on an elusive "consensus," has proven incapable of responding to the most serious challenge to confront Europe and the North Atlantic region in more than a half century.

However, it would be disastrous if the decline of the liberal-institutionalist regional order is replaced by a return to a regional anarchy in which "might makes right" and competitive power politics replaces co-operative security as the governing principles in this region after the end of the Russian war against Ukraine; this situation could be exacerbated, especially if (as seems likely) NATO moves closer to Russia's borders in northern Europe. In rebuilding that new regional security system a reimagined OSCE can play a fundamental role in trying to restore the foresight and vision of Helsinki '75, not as an alternative to NATO but as a complement to it in the larger region extending beyond the territory of the NATO member states. Furthermore, however difficult it is to envision a role for Russia in that new regional order right now, it is hard to imagine any progress to restore the principles of Helsinki '75 without Russia's eventual participation. Balancing retribution for the clear aggression, war crimes and crimes against humanity committed by Russia in its invasion of Ukraine, on the one hand, with opening a path for Russia's reintegration into a new regional security order in the future, on the other hand, will likely be the greatest challenge faced by the OSCE since its creation.

LEARNING FROM UNESCO'S MISTAKES: HOW (NOT) TO START A REFORM

Vytautas Jankauskas[16] & Steffen Eckhard[17]

As Russia wages war against Ukraine and distrust among the participating States deepens, the OSCE finds itself at a point of a critical juncture. The Special Monitoring Mission to Ukraine (SMM) is now closed, significantly reducing extrabudgetary contributions[18] to the Organization. Core OSCE activities are threatened as reaching a consensus to approve the Unified Budget, OSCE field missions, or the 2024 Chairmanship faces uncertainty. Without political agreement about such fundamental questions, stakeholders, in turn, begin questioning OSCE's necessity. Although from an operative and organizational point of view the Organization has many strengths, the political crisis among participating States warrants a reset of priorities and a clarification of common political denominators.

In times like this, many naturally look to the OSCE leadership to find a way for the Organization to survive. While the Chairperson-in-Office and the Secretary General are busy evaluating reform options, they may want to consider lessons learned by other international organizations which have also faced organizational crises and had to initiate reforms.

UNESCO's budgetary crisis of 2011 is one such an example of an organizational crisis caused by political dynamics among the membership. In that year, the UNESCO General Assembly accepted Palestine as a member to the organization. This forced the US government, acting pursuant to a domestic law that existed since 1990, to withhold its budgetary contributions. Israel did the same. Both states immediately stopped paying all their dues, including those still owed for 2011, causing a gap of 28 per cent in the organization's running budget.

But even before that, UNESCO had suffered budgetary losses for at least a decade (between 2002 and 2010 the real-term budget decreased from US$544 million to US$513 million), while the operative portfolio of the organization grew. The Secretariat described this situation as "doing more with less" and there were several reports and external evaluations calling for a

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18 Due to the war in Ukraine, the OSCE's Special Monitoring Mission to Ukraine was closed in April 2022. Its budget from assessed and extrabudgetary contributions reached €108.9 million for the period between April 2020 and March 2021. Similarly, OSCE's total regular budget reached €138 million for 2020 (see OSCE Annual Report 2020).

fundamental reform of the organization, in particular by reducing the scope of its numerous sectors, programs and activities.

Overall, UNESCO was under severe stress in 2011, facing both the consequences of the immediate budgetary crisis and the more longer-term pressure and need to enact reforms.

In this critical situation, what saved UNESCO from bankruptcy in the short term were individual states, mostly from the Arab region such as Saudi Arabia and Qatar, which increased their short-term voluntary contributions to the organization. But it was clear that filling gaps in an ad hoc manner was not sustainable, and a new budgetary structure was needed. To get there, the Secretariat initiated a reform process using surveys and group consultations to understand member states' preferences on the future shape of the organization.

As a first step in August 2012, and in preparation of the 2014-2021 mid-term strategy, the Secretariat circulated a survey among member states asking whether they supported reform and what type of changes they preferred. The Secretariat also sent senior staff to the regional group consultation process among national delegations to UNESCO (there are five regional groups).

In principle, two basic options were on the table: Either to maintain the structure of the organization with its five sectors and 48 programs, while simply cutting costs for each program; or to prioritize by closing a number of programs and even one or two of UNESCO's main sectors. And while all experts and the Secretariat agreed that from a *functional* perspective some sectors had to be closed, this appeared *politically* difficult as there was always a large enough group of member states who opposed any combination of sector closure.

Based on this feedback from the political principal, the Secretariat conducted a prioritization of activities within each of UNESCO's five sectors. The document was ready in early 2013, being shared in the form of a 'budget implementing plan' with the Executive Board. However, it appeared that without political guidance from member states the Secretariat had missed the intended budgetary ceiling by a difference of €27 million.

The Board then rejected the plan, launching its own reform process. On the initiative of the UK ambassador who headed the budgetary committee at the time, states formed an informal working group to identify programmatic priorities, meeting twice in May and June 2013. Each of UNESCO's six regional groups delegated three states to represent them in this prioritization exercise, with group consultations taking place before and between working group meetings.

The main method were two parallel prioritization exercises: The first ranked UNESCO's 48 programs according to priority and resulted in a proposal that would have ended two sectors; the other maintained the basic structure, ranking programs within sectors.

Such a prioritization exercise was unprecedented in the history of the organization (and maybe even beyond) and member states took a lot of pride in the fact that they came to a decision at all. Nevertheless, they still failed to adopt the functionally necessary reform that would have ended two sectors. Instead, they prioritized within sectors, a decision that was further watered down when it was implemented. In 2017, an external audit concluded that "UNESCO continues to carry out all of its mandates, which over the years have become stretched and imposed manifest pressure on the staff in place" (201 EX/21.INF.5, 24–25). Nowadays, UNESCO's headquarters in Paris is surrounded by a tang of resignation, rather than renewed optimism.

What does this all mean for the OSCE? When drawing any lessons, it is important to firstly consider that UNESCO runs on the basis of qualified majority voting, which implies that major decisions can be taken by a two-thirds majority. At the same time, the informal prioritization exercise of 2013 aimed to reach a consensus-based decision, which would be comparable to OSCE's situation. However, and secondly, UNESCO's member states at the time shared a common interest to maintain the organization, which is currently less tangible in the case of the OSCE.

Nevertheless, it is clear that the OSCE currently needs a functional and fundamental reform that would mobilize participating States' support to the Organization. Continuing without reform, with creative budgetary acrobatics and legal loopholes, will certainly allow for the Organization to be maintained. Such workarounds are also what initially saved UNESCO from going bankrupt. However, what UNESCO understood is that such strategy is not sustainable. Doing more with less, in the case of UNESCO, or working without a clearly defined political purpose, in the case of the OSCE, will send the Secretariat into a decade of gradual deprivation. While the UN offers lifelong employment to its civil servants, the OSCE will lose its most valuable resource: its staff. Who would want to work at an organization in creeping decay?

Another lesson that UNESCO taught us is that unilateral reform proposals do not work. Neither the Chairperson-in-Office nor the Secretary General should hope that a political or a bureaucratic reform proposal alone will be successfully implemented. Even under much more favorable conditions, UNESCO failed to realize a *functional* reform. In our own in-depth

analysis[19], we concluded that one key reason was the lack of synchronized problem solving by the Secretariat *and* member states, who instead both attempted their own reforms at different points in time.

Hence, the OSCE needs a political agreement that is backed by the Secretariat and is able to endure. Although currently hard to imagine, stakeholders should start thinking about an inclusive reform process — maybe even in a form of a future OSCE Summit. Every stakeholder should specify what it is that they want the Organization for, which may imply painful decisions. But an OSCE that only survives because its Western partners keep it alive would essentially be obsolete. Western powers have enough institutionalized mechanisms for co-operation among themselves.

Without a political reset, it is therefore likely that OSCE will gradually decay, celebrating its mere survival rather than prosperity at its 50th anniversary in 2025.

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[19] Eckhard, S., Patz, R., & Schmidt, S. (2019). Reform efforts, synchronization failure, and international bureaucracy: the case of the UNESCO budget crisis. Journal of European Public Policy, 26(11), 1639-1656. doi:10.1080/13501763.2018.1539116

WILL THE OSCE DEVOLVE INTO THE CSCE?

Ian Kelly[20]

Putin, with his invasion of Ukraine, dealt a terrible blow to the Organization for Security and Co-operation in Europe (OSCE), the West's main post-Cold War instrument for promoting the principles of democratic governance, such as human rights, freedom of the media, and free and fair elections, and preventing conflicts. But it was not the first time. Putin's attempts to erode and marginalize the Organization began years ago – beginning at least in 2007. Then, at the Munich Security Conference, Putin launched a tirade against the West and the tools he claims it uses to dominate Europe and undermine Russia.

In his Munich speech, he reserved special criticism for the OSCE, which he called "a vulgar instrument for promoting the foreign policy interests of one country, or a group of countries." He accused the West of using the Organization's "human dimension" to "interfere in the internal affairs of other countries…and impose a regime that determines how they should live and develop." The OSCE's main forum for discussing human rights has been the annual Human Dimension Implementation Meeting (HDIM).

The OSCE operates on the principle of consensus, which means one country can hold up the mandate and even the budget of an institution. Given Putin's animus toward the HDIM, it is not surprising that last year Russia withheld support for the annual meeting in Warsaw to examine progress toward the protection of human rights across the OSCE space. Because of Russia's action, the HDIM was unable to meet for the first time in nearly thirty years because of a lack of consensus (the HDIM also did not meet in 2020 because of the pandemic).

But promotion of human rights, or what Putin terms "interference in internal affairs," is not the only reason Russia has sought to undermine the OSCE. Russia has justified its invasion of Ukraine by claiming a right to prevent the encroachment of Western institutions into what it sees as its sphere of influence – the former Soviet space. Russia also sees field missions and the conflict-related mechanisms as interference into its privileged affairs in its "near abroad," and so has sought to hamstring them and starve them of resources by withholding budgetary consensus.

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The OSCE has 14 field missions – seven of them in the former Soviet space. These missions are the Organization's on-the-ground efforts for helping host-countries implement democratic reforms and manage conflicts. They are among the few multilateral institutions in Eastern Europe and Eurasia and are staffed by many from the West. Their presence, and their democracy-promotion activities, run counter to Russia's goal of keeping states on its periphery oriented toward Moscow, and preventing the emergence of successful Western-style governments.

In an attempt to limit the influence of these missions, Russia, together with other illiberal former states in the former USSR, has sought to circumscribe their activities, closing some, and downgrading the status of others from "mission" to "program office" or "project co-ordinator". Most disturbing, however, have been the efforts to withhold consensus for the very existence of these missions (their mandate must be renewed annually). The mandate for most of the field missions will expire at the end of this year, and concern that they will fail increased when Russia blocked the extension of one mission, the Special Monitoring Mission to Ukraine (SMM), that came up for renewal the end of March. This wasn't the first time Russia withheld consensus for a field mission – it also did so for the field mission in Georgia after Russia's invasion there in 2008.

The SMM was one of several conflict resolution mechanisms the OSCE leads in Eastern Europe, and in which Russia participates. One of the oldest is the Minsk Group, set up by the OSCE in 1995 "to provide an appropriate framework for conflict resolution … and to promote the peace process by deploying OSCE multinational peacekeeping forces" in the conflict zone of Nagorno Karabakh. The process is co-chaired by ambassadors from the US, Russia, and France.

Under Putin, Russia has made clear its reluctance to allow the West, in the form of the OSCE, to play a role in resolving conflicts on its borders. But in 2020, in the wake of another war between Armenia and Azerbaijan over the disputed territory of Nagorno Karabakh, Putin rendered the OSCE's Minsk process entirely irrelevant. Without any reference to the Co-Chairs, he negotiated a ceasefire directly with the warring sides, making it contingent on them accepting not an OSCE-led peacekeeping operation, as Russia had agreed to in 1995, but a Russia-only force. To add insult to OSCE's injury, he proposed a new trilateral mechanism led by three illiberal (and former imperial) powers, Russia, Turkey, and Iran. According to OSCE diplomats, the Russian Minsk Co-Chair is no longer actively engaging with his US and French colleagues on any substantive issue regarding the region.

The OSCE is a co-chair of another negotiating process, the Geneva International Discussions (GID), set up after the ceasefire in Georgia in 2008. While here too Russia has tried to minimize the role of this multilateral forum in resolving a conflict on its borders, the GID has proved an important venue for promoting dialogue among the conflicting sides. It also provides political justification for the Incident Prevention and Resolution Mechanisms (IPRM), a demonstrably useful tool where local officials meet on the administrative border lines in Georgia to resolve local disputes and prevent them from turning into violent conflicts.

While Russia has marginalized the GID, it is the OSCE itself that has recently sidelined it. The US and many of its European allies, concerned about the appearance of conducting "business as usual," have not met with senior Russian officials in the GID and some other OSCE formats since the February 24 invasion of Ukraine. It is understandable that Western officials are reluctant to give the Russians a public opportunity to launder their image by pretending they are responsible international actors. But by refusing to convene meetings like the GID, the West runs the risk of becoming co-conspirators in the attempt to render such institutions useless.

Russia's efforts to marginalize and block the OSCE's institutions it sees as contrary to its interests, combined with Western reluctance to co-operate with Russia while it brutalizes another OSCE state, have led to the danger of the OSCE being stripped of many of its important mechanisms for promoting democracy and preventing conflict. Their establishment after the end of the Cold War turned a conference into an organization, and without them the OSCE threatens to devolve back into its original incarnation, the Conference for Security and Co-operation in Europe.

To be clear, even absent consensus to keep its institutions, the OSCE is worth preserving. Putin's predatory and antidemocratic regime will not last forever, and just as the OSCE field-mission concept helped newly independent states make the transition from dictatorial regimes, it can do so again. If the field missions' mandates are not renewed this year, which many fear, the Chairperson-in-Office (Poland is the CiO in 2022) can also use their authorities to maintain a type of field mission (for example, as an "Office of the Special Representative of the CiO") in OSCE countries where the host supports their continuation. They can be funded by like-minded OSCE states, outside the normal unified budget that is agreed to by consensus.

But the OSCE is valuable for more than just its institutions. It is the first security organization that enshrined the principle of multidimensional security: the idea that security among states

depends on respect for human rights within states. That idea alone, as a fundamental value of the OSCE, makes the Organization worth defending and sustaining.

GLOBAL ZEITENWENDE: GREAT POWER COMPETITION OR UNDIVIDED SECURITY?

Reinhard Krumm[21]

 "Nothing will be as it used to be" was the warning of a high-ranking German diplomat only three years ago, describing the unstable security environment in Europe and beyond. His reasoning was based on rapidly growing security challenges on multiple fronts and the usual suspects: Russia, Iran and North Korea. But what he was also referring to was the emergence of an unpredictable partner within NATO and the transatlantic bond: the United States. Its president Donald Trump did not seem to be interested in collective security, multilateral policy or organizations such as the United Nations. This attitude greatly dismayed Europeans. According to an opinion poll commissioned by the Friedrich-Ebert-Stiftung (FES) in 2019 more people in France and Germany felt threatened by the US than by Russia.

With the arrival of the new administration of President Joe Biden this perception has faded away, even though Europeans still fear that the US is domestically far less stable than it used to be. And as if this uncertainty is not enough, on February 24 2022, Russia invaded Ukraine, sending shockwaves through Europe not known since the Cold War. The security order based on the Helsinki Final Act (1975) and the Paris Charter (1990), already severely damaged by the Russian annexation of Crimea and Moscow's interference in the Donbass, has (almost) completely collapsed.

Only three days after the start of the Russian invasion, German Chancellor Olaf Scholz announced a "Zeitenwende" (a change in an era) in German policy, the equivalent of a "Ground Zero" for enhancing German and European security. Equally dramatic were the words of Counselor of the US Department of State, Derek Chollet, who declared the war in Ukraine to be a "once-in-a-generation crisis" with unforeseeable global effects. One outcome is that Finland and Sweden are now contemplating joining NATO, which previously both countries were very hesitant to do. Another is the threat of hunger in some African countries because of the anticipated meager grain harvest in Ukraine due to the war.

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21 Dr. Reinhard Krumm, Director, Regional Office of Friedrich-Ebert-Stiftung for the Baltic States, Riga, Latvia.

Stumbling blocks for European security

In a survey which was conducted before the war in Ukraine, citizens of 14 states within the region of the Organization of Security and Co-operation in Europe (OSCE) were asked about their threat perceptions. They saw several stumbling blocks for a stable European security architecture, including the following:

1. A belligerent Russia with "a sense of unachieved entitlement among the Russian public";

2. "Emphasis on national interests and heightened expectations of national governments";

3. Doubts about "the reliability of the United States as the security guarantor for Europe";

4. Realization that "the EU, the aspiring actor to fill the potential gap left by a US focused on domestic matters or the growing Sino-American differences, is still nowhere to be seen".

The challenges for Euro-Transatlantic security go far beyond Russia. They include climate change, global migration, populism, terrorism, poverty and pandemics. Therefore, both the EU and NATO have been working for some time to carve out a new strategic approach. "NATO 2030: United for a new era" is a report based on a review of challenges by a reflection group, which was published in November 2020. The EU went further with the aim to have a consensus document with a clear understanding of common threats, as well as measures to counter them and strengthen the EU as a regional and global political and security entity. The result, "A Strategic Compass for Security and Defense", was adopted in March 2022.

Five out of nine nuclear powers do not condemn Russia's war

The important question is how the collective, or better the co-operative West, can manage and counter global threats, even as a multipolar world emerges that is not even remotely united in having a common approach. The same is true for the Organization for Security and Co-operation in Europe (OSCE) and its 57 states. A good example of this challenge is the UN General Assembly vote taken on March 2 in favor of a resolution condemning the Russian invasion of Ukraine. The result seems clear, with 141 of 193 states supporting the resolution, five opposing it and 35 abstaining. A deeper look at the 35 abstaining states puts the seemingly clear vote into a different perspective, however.

Those states that abstained represent about half of the world's population. Thus, although it is easy in the West to feel that the entire world is united against Russia's actions, this is actually

far from the case. The combined economic strength of the abstaining nations represents about one fourth of global trade. And most importantly, some of these states are responsible for global security or the lack thereof. Three nuclear powers abstained (China, India, Pakistan) and two (Russia, North Korea) voted against the resolution, which makes them a majority among the de facto nine states that have nuclear weapons.

The countries, former republics of the former Soviet Union, that voted for the resolution were the three Baltic states (EU and NATO members) and those with an EU association agreement: Georgia, Moldova, Ukraine. The rest abstained, as did Mongolia, or voted against or not at all. The OSCE has ten states within its ranks which are not condemning Russia's war against Ukraine. That does not bode well for its core interest — undivided security in Europe.

There is no institution to enforce international law

If one puts all of the 35 states that abstained from the UN vote into the context of their political and economic position in a globalized world, this shows the challenges of international law and the rule-based international order. These states are surely not in favor of the invasion of Ukraine. Apart from their partial dependence on Russia's support in various areas such as military equipment, they seem to be united in their opposition to a Western-dominated international order and in condemning what they see as a hypocritical normative discourse. They point to the great harm inflicted by the West on other countries and their citizens and infrastructure. Afghanistan is one example; Iraq and Libya are others.

This is one of many problems for the EU, the US and especially organizations like the OSCE. In the past, international law and standards mostly worked well because there was an overall consensus and a proven track record of their effectiveness and success. One example was the Iran nuclear agreement, formally known as the Joint Comprehensive Plan of Action (JCPOA). Another was the Paris Charter of the Conference of Security and Co-operation in Europe (CSCE), the most ambitious document of European security ever.

Up to now, the highest institution of global adjudication has been the UN Security Council and its five permanent member states. But they are not independent and unbiased judges. States such as China, Russia and also the US do not accept the compulsory jurisdiction of the International Court of Justice. A system of restrained self-interest and orderly behavior operated more or less successfully after the end of the Cold War because of a powerful United States, a weak Russia, and a China that was more interested in economic progress than

geopolitics. But it loses its effectiveness in a multipolar world where major powers such as Russia and China are not interested in self-restraint — nor is the United States.

Dissatisfied with the status quo

As of now, one could argue that many states have profited, but the main beneficiaries from the Western-led international order are the Western states themselves. For others, the economic aspects of that order appear instead as unjust trade, unequal opportunities, unfair wealth distribution and too much dependence on the West in general. Right now, they might also add their criticism about the differing treatment of refugees fleeing to Europe, depending on their origins: great attention and assistance for those coming from Ukraine; far less for refugees from Afghanistan, Iraq or Syria.

Also, a number of societies among the NATO states would argue that by far not all Western citizens are able to profit from the current globalization based on international law and order. The clear victory of Viktor Orbán in Hungary, the strong candidacy of Marine Le Pen during the presidential elections in France and the continuing vocal support for Donald Trump in the US are a few examples that illustrate the dissatisfaction of many voters within the Western world and highlight also the domestic side of the international challenges facing the EU and the US.

Looking for a global and comprehensive united positive agenda

To face all the above challenges, some US experts suggest the creation of a Western "super bloc," as formulated in a recent article in the journal *Foreign Affairs*. This would mean reinforcing US leadership of the West by reinvigorating transatlantic co-operation, both economically and militarily. Such a "super bloc" would be in competition with the 35 states that abstained during the UN vote — and possibly with an even greater number, since the number of abstaining countries increased to 58 when the UN General Assembly adopted a resolution to suspend Russia from the Human Rights Council.

A different approach, as the head of the SPD faction in the German Bundestag mentioned in a recent interview, would be to continue working on a concept of "undivided security," as once envisioned by the already mentioned Paris Charter of the CSCE. Avoiding opposing camps and blocs clearly is a long-term policy process and, as during the Cold War, is based on strong defense capabilities.

Still, it is more Europe than the US that is searching for a "united positive agenda," which the former Secretary General of the OSCE Thomas Greminger sought to promote while in office from 2017 to 2021. He meant a vision based on how George F. Kennan once described his home country of the United States almost a hundred years ago, which might still be part of the continuing but perhaps fading American dream: "boundless optimism in perpetual prosperity and the general righteousness of things." With a similar aim, Europe and its citizens are looking for islands of certainty and partners in turbulent seas of challenges.

For that search, the UN and also the OSCE are the multilateral organizations that are worth being "updated and upgraded" to give international law the needed support and legitimacy it so badly needs, in the opinion of European citizens surveyed. This longing for stability and security might be an indicator of why they see not only co-operation at the national and regional level but also international collaborations at a higher level as necessary to overcome global threats as well as deepening global divisions.

The expression "Zeitenwende" should not be seen as only German or European but as referring to a global change of an era. Perhaps now is the real beginning of the 21st century. The previous era began with World War I and the Russian Revolution. And today, just as more than one hundred years ago at the beginning of that turbulent century, we do not yet have a blueprint for how to proceed. But we have organizations like the UN and the OSCE, which have ample experiences and instruments to try again.

LEARNING FROM THE SMM TO UKRAINE: A NEW MISSION OR A NEW OSCE?

Yana Lysenko[22]

With the start of the Russian invasion of Ukraine at the end of February 2022, the weakness of the OSCE and its Special Monitoring Mission (SMM) to Ukraine became acutely apparent. The deployment of the SMM was initiated by Ukraine as a reaction to Russia's covert invasion of Crimea in early March 2014. On March 31 2022, the Russian Federation blocked the decision to prolong the SMM's deployment in Ukraine. This contribution summarizes the major weaknesses of the mission and draws conclusions about OSCE structural reform needed to improve similar missions in the future.

Key problems of the SMM

The SMM mandate

On March 21 2014 a mandate was issued for an OSCE Special Monitoring Mission to cover the entire territory of Ukraine (including Crimea, according to Ukrainian interpretation). Russia refused access to Crimea, referring to the facts created by the referendum of March 16 2014 and the subsequent application of Crimea to join the Russian Federation. The mandate was therefore de facto limited to the remaining territory of Ukraine. The SMM mandate did not refer explicitly to the conflict in eastern Ukraine, which escalated only in April 2014.

The SMM deployment in the areas of eastern Ukraine not controlled by the Ukrainian government became an explicit part of the Minsk Agreements of September 2014 and February 2015. A distinctive feature of the SMM mandate was that it neither clearly named parties of the conflict that could be held accountable, nor contained the word "conflict" itself. The separatists and Russia were not mentioned in the text as actors. Due to the threat of a Russian veto, the mandate remained effectively unchangeable.

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Dependency on co-operation

According to its mandate, the SMM was able to record observed violations of the Minsk Agreements and of fundamental human rights, but the observers were always dependent on the willingness of local authorities to co-operate. The SMM staff was not empowered to enforce access to areas if access was rejected by those in actual control of the respective territory, although the SMM mandate required that access be granted throughout Ukraine (including the areas not controlled by the Ukrainian government). As a result, the SMM was only able to accomplish its actual task of monitoring the conflict and documenting ceasefire violations and the withdrawal of heavy weapons in a limited way.

Missing transparency in the SMM reports

The SMM daily reports, published online, were intended to provide an impartial view of the security situation in Ukraine. However, due to diplomatic considerations, the increasingly obscuring language of the OSCE's reporting made it difficult for outsiders to obtain a clear understanding of the real situation on the ground. Although every violation of the Minsk Agreements and other incidents observed by SMM staff, cameras and drones were listed in the reports, the origins and originators of such incidents were not explicitly named. Such omissions de facto enabled all parties to the conflict to present a manipulated data interpretation to support their own view. Compared to 2014, the daily reports from 2022 were much longer and vaguer in their expressions.

Until October 29 2015, for example, the reports contained an indication of the direction in which weapons had been fired (<u>outgoing/incoming</u>), which in most cases allowed a well-founded presumption about the conflict party responsible for the ceasefire violation. From October 30 2015 onwards, the SMM <u>reports</u> only noted when and where a shelling or an explosion had been observed. The SMM was therefore unable to act as a "referee" and could not provide clear information about who was responsible for incidents and ceasefire violations.

Security as a requirement for the SMM work

Immediately after the Russian attack on February 24 2022, the SMM decided to evacuate its international staff from the entire territory of Ukraine. On March 1 2022, all international SMM staff members <u>left</u> the non-government-controlled areas, and on March 7 they also left the entire government-controlled area of Ukraine. The SMM has not published any daily report since March 8.

With the exception of the Donetsk and Luhansk regions, there was no monitoring of the areas near the border and of the areas invaded by Russia. This was because of the mandate, which did not enable the SMM to work in "insecure situations". In fact, this provision means that in cases of military escalation, when the mission is most urgently needed, it has to withdraw.

A new mission or a "new" OSCE?

Despite its weak mandate, OSCE staff seem to be convinced that the SMM as some kind of compromise mission was a better solution than having no mission at all. The SMM was regarded as the "eyes and ears" of the international community in this conflict. As another success of the mission, it was emphasized that SMM activities have made a strong contribution to reduce the suffering of the civilian population caused by damaged infrastructure. The repair works carried out have also been mentioned as evidence of the SMM's efficiency. At the same time, such an argument reduces the core of the Organization from its self-perception as a peace platform to some kind of construction company in crisis zones.

The SMM's achievements can therefore be assessed based on either the SMM mandate or its implementation. It is obvious that the SMM mandate did not correspond to the requirements of the conflict in eastern Ukraine and prevented the SMM from effective monitoring. However, the implementation of the mandate by SMM observers was as effective as possible under the given circumstances. This fact indicates that the real causes of the ineffectiveness in restoring security lie in the OSCE's own structures.

Mandate needed for a deployment in Ukraine

The mandate of any OSCE mission deployed to a conflict zone should be allowed to clearly name the parties involved in the conflict. In the case of ceasefire violations, the "rule breaker" should be named in the OSCE's reports, avoiding any politically motivated censorship. Reports need to be written in clear and transparent language that describes the facts and should also contain an analysis in order to show what conclusions can be drawn from these facts (see also: Umland on p.15).

For the SMM to be truly effective, its mandate should have been more robust. The CSCE Helsinki Document of 1992 foresees that in addition to civilian staff, a mission can also comprise military staff and deploy armed forces in its peacekeeping activities. An OSCE mission could accomplish tasks of monitoring and maintaining ceasefires, monitoring troop withdrawals and maintaining law and order, which also implies acting as a kind of police.

Moreover, as the current escalation has shown, a mandate of the security organization for deployment in some crisis areas cannot include requirements such as "safe and secure access" for its employees. This means that OSCE staff should be trained and equipped for deployment in crisis areas.

These options, which have never been implemented in any OSCE mission, would have been necessary in eastern Ukraine in order to ensure effective compliance with the ceasefire and peacekeeping. In such a scenario, the SMM could have acted as effectively as some robust UN peacekeeping missions.

Achilles' heel of the OSCE

However, due to the consensus principle of the OSCE, such a mandate will not be agreed to if some of the participating States have their own interests in maintaining the conflict and therefore intentionally block all decisions.

The structural weakness of the OSCE derives from the faultiness of the basic assumption of a "fair game" with "fair players", which offers no real possibility to impose sanctions on a "rule-breaker". The SMM is an example of how an OSCE mission cannot function properly as soon as some participating State actively undermines it or has the means to make efficient monitoring impossible. Multilateral organizations often fail because of the consensus principles laid down in their founding documents. Even the principle of "consensus minus one", as applied in the case of Yugoslavia, does not promise success, because even the action of one participating State, which is allied to a "rule-breaker", can be sufficient to block all necessary activities of the OSCE.

Reform advice to the OSCE

If the OSCE continues to define itself as a security organization in the spirit of its founding acts, the current Russian invasion raises the question of whether the OSCE should be completely rebuilt. Strict admission criteria related to democratic standards and clear exclusion criteria would be needed for such a reorganization. For cases of violations of the OSCE's principles, a sanction mechanism should be developed. The implementation of sanctions with immediate effect should be decided by qualified majorities. The actions of the Organization would then no longer depend per se on unanimous approval by all participants.

The consensus principle should be replaced by the need for a qualified majority in order to make the Organization more capable of acting. Qualified majorities would also help to avoid reducing missions to a minimum consensus, as such a reduction can lead to a distorted perception of conflicts with counterproductive outcomes. Focusing on minor successes can create the illusion of a normalization of the situation, thus causing misperceptions about the conflict.

From the outset, the structures and mechanisms of this OSCE should be safeguarded against "unfair play" and should be written down in some kind of new constitution. This constitution should provide a stable — and for some members uncomfortable — framework in which the actions of the OSCE are not tied to specific persons and actors but only to the principles. The focus should no longer be on the inclusivity of the maximum possible number of members but on the efficiency of the Organization in accordance with its fundamental ideas.

These suggestions will not be welcomed and supported by all current participating States, but they could help the OSCE to become a noticeably more efficient and result-oriented security organization. Therefore, some stimulus should be created for this, offering the participating States of this "new" OSCE considerable benefits from membership. The Organization's structures and principles can only be an offer that the participating States either do or do not accept. Only then can there really be any hope in an effective organization for peacekeeping and crisis prevention.

TIME TO (RE)BUILD BRIDGES IN EUROPE VIA THE OSCE

Michael Mosser[23]

The Russian-led war in Ukraine continues to dominate the headlines of news sources around the world, but one of the principal players in shaping the pre-and post-war European security architecture remains hidden in the shadows. Unlike its institutional counterparts such as NATO and the EU, the Organization for Security and Co-operation in Europe (OSCE) has been in the news surrounding Ukraine only if one looks for it.

That is a shame and does an injustice to an organization whose entire purpose remains vital to the preservation of a structured security order in Europe. The OSCE, headquartered in Vienna but with offices and agencies scattered across Eurasia, is the world's largest regional security organization, stretching in the Organization's words "from Vancouver to Vladivostok". Founded in 1975 as the Conference on Security and Co-operation in Europe (CSCE), a series of high-level meetings kept the two sides of the Cold War talking to each other, striving to maintain the spirit of détente even in the dark days of the 1980s when nuclear war between the superpowers entered into the realm of the possible. Each side brought its prerogatives: the West wanted a firm commitment to human rights from the East, and the Soviet bloc (ironically) wanted a commitment to recognition of post-war European borders. Importantly, however, there was another group of states who played a key role in keeping the opposing alliance members talking to each other, even in the depths of the Cold War. These states, known collectively as the Neutral and Non-Aligned (NNA) states, were either formally neutral countries like Finland or Austria, or European states belonging to the Non-Aligned Movement (most notably Yugoslavia).

After the Cold War ended, the CSCE morphed into the more formalized organization of the OSCE, with a headquarters and a permanent staff. The OSCE takes what it calls a "comprehensive approach" to security, refusing to differentiate between politico-military, economic, and human aspects. The founding document of the CSCE/OSCE, the Helsinki Final Act (HFA), was signed by every state in Europe except for Albania, as well as by Canada and the United States. The HFA contains within it "Ten Principles Guiding Relations between Participating States," known colloquially as "the Decalogue" and which enshrine, among other

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things, the principles of sovereign equality, inviolability of borders, and peaceful settlement of disputes.

With its invasion of Ukraine, Russia has accomplished something no participating State of the OSCE had done in 30 years, and which has only happened once before: the violation of each of the principles of the Decalogue via naked aggression across internationally recognized sovereign borders. Despite this aggression, Russia remains a participating State of the OSCE. Moreover, because all decisions of the Organization are made by consensus, no such condemnation of its actions has been made by the OSCE itself. It is possible to sanction a participating State via a procedure known as "consensus minus one," which has been used once before in the aftermath of Serbian aggression against newly independent Bosnia in the 1990s. But removing Russia from the OSCE, as it has been from other international organizations, is unlikely even with the "consensus minus one" procedure in place, as at least Belarus (and possibly Serbia) are likely to stand steadfastly by Russia and prevent any consensus decision from being reached.

As a scholar of the Organization, I care deeply about it and want it to continue to be a part of the conversation around European security. But it is becoming increasingly clear to me that the OSCE as currently structured cannot be a part of rebuilding the shattered European security architecture. The rules, norms, and decision-making procedures set forth in the Charter of Paris for a New Europe of 1990 and the Budapest Declaration of 1994 are now rightfully seen as part of a false peace, an interregnum between the Cold War and whatever new era in which we now find ourselves.

The task of keeping Europe talking, even now and especially after this current conflict comes to some sort of end, must fall to the OSCE. But it cannot be the OSCE as it has been since the end of the Cold War, or even since the end of the Balkan wars of the 1990s. The OSCE must admit that that notion of a democratic 21st century Europe is a vision no longer shared by each of its participating States. It must accept that difficult dialogues must take place among adversaries, and re-evaluate its role in fostering that dialogue.

And so it seems that the best way for the OSCE to move back into the limelight, to re-emerge into relevance, is to accept the fact that Russia will remain a participating State within the Organization. Dialogue, however painful, must take place between all of the participating States, and must occur with the Helsinki Final Act and the Decalogue as bedrock foundations. But how that dialogue is operationalized requires some creativity, and to that end we must look

to the group of states who helped to keep the superpowers talking during the Cold War: the neutral states.

The OSCE must revive the notion of neutral states as "bridge-builders" between East and West. Of course, there are fewer neutral states than there were in the 1970s and 1980s (and with Finland and Sweden likely to join NATO in the near future, there are likely to be two fewer neutral states in Europe quite soon). The distinction between "East" and "West" is also quite a bit cloudier than it was before the Iron Curtain fell.

It is also true that the neutral states of the OSCE have not always been welcomed to the table; many of the Organization's celebrated Cold War accomplishments like the Mutual and Balanced Force Reduction (MBFR) and Conventional Armed Forces in Europe (CFE) agreements were negotiated and settled between the US and the Soviet Union and their respective allies. But even in the Organization's formative stages, neutral states such as Finland and Austria were key players in institutionalizing the CSCE process to take place outside of military alliances, setting the Organization up for its future role as an honest broker between NATO and the Warsaw Pact in non-traditional areas of security. Neutral and non-aligned states continually pressed the alliance members on each side to consider more expansive notions of security, giving the CSCE and OSCE its much-admired interpretation of "comprehensive security". Moreover, during the height of the Cold War in the mid-1980s, the formally neutral states (and their non-aligned partners) were instrumental in helping both the CDE talks and the Madrid meeting of the CSCE avoid fatal stalemates.

Throughout the 1990s and early 2000s, the role of the NNA states faded in importance and relevance. The bloody breakup of Yugoslavia removed a major NNA player from the equation, and in the 2000s the OSCE moved confidently into a future that seemed to be more about the kind of "Basket Three" security issues like election monitoring and press freedom than it was about "Basket One" politico-military security. But the actions of Russia, especially since 2014, have renewed calls for European security institutions to take the lead in countering Russia.

Countering Russia militarily is not the purview of the OSCE, but it should be part of the discussion of "what comes next" after the war in Ukraine ends. Given that Russia appears to be systematically destroying not just Ukraine but also any chance of constructive engagement with the West, using the OSCE as a forum for dialogue might seem like a fool's errand. And it might be, if the Organization were comprised only of participating States aligned intractably against Russia or those few remaining who support its actions. But the presence of the neutral

states lends credence to the idea that their bridge-building role in the Cold War might be resurrected and reinvigorated. There is precious little to lose, and much to gain, with such a strategy.

THE UKRAINE WAR, THE OSCE MOSCOW MECHANISM'S REPORT AND THE UNVEILING OF THE TRUTH

Christophe Paulussen[24]

These are desperate times, including for the OSCE — "one of the only remaining multilateral spaces outside the UN for dialogue between Russia and the West". As my predecessor Arie Bloed already wrote on 25 February, "[a]lthough the OSCE has achieved a lot over the past decades, in particular also in the most challenging environments, the open Russian aggression against a neighbouring country is the most serious crisis which the OSCE has faced in its existence. As a matter of fact, the basis on which the organization has been functioning has been largely taken away." While I agree the OSCE is going through an existential crisis and that innovative thinking will be required to do what in my view is necessary, namely to preserve the Organization, I would like to use this space to focus on something positive that relates to my background as an international (criminal) lawyer; on one of the small bright spots that the OSCE has been able to spark amidst all this darkness and misery. And that is the publication of the 'Report on Violations of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity committed in Ukraine since 24 February 2022'.

The tragic war in Ukraine is not only an armed conflict in the technical-legal sense of the word; it is also a(n) (dis)information war, in which facts are twisted and denied, and mental warfare is used to sow doubt, instill fear and show muscles. Like the actual armed conflict, it is meant to influence the adversary, but also to gain support from the general public so that the latter continues to support the leadership in its cause. In this heated and biased context, where both sides blame each other of producing propaganda, fake news and hoaxes, the truth may become blurred. As Ethel Annakin noted in August 1915: "Someone has finely said that 'truth

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is the first casualty in war'". And that is why it is crucial to have independent experts verify and assess information on what is actually happening on the ground.

The 'Report on Violations of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity committed in Ukraine since 24 February 2022' (hereinafter: Report) has been engendered by the OSCE Moscow Mechanism. This mechanism is "a little known, but potentially effective tool" that was created at the Moscow Conference on the Human Dimension in 1991. Harry Hummel has explained that the mechanism "was insisted on at that time by the Soviet/Russian delegation", which is quite salient in view of the current developments and the position of Russia in this matter. The Moscow Mechanism provides for the possibility to establish missions of experts "to facilitate resolution of a particular question or problem related to the human dimension". On March 3 2022, the Moscow Mechanism was invoked by Ukraine and supported by 45 participating States, after which a mission of three experts — Professors Wolfgang Benedek, Veronika Bílková and Marco Sassòli — was appointed on March 14. As my colleague Stephanie Liechtenstein has also explained, the Report "is the first independent expert analysis from an international organization that identifies potential war crimes committed by Russia in Ukraine." Indeed, the Report stipulates that the mission of experts:

> found clear patterns of IHL [international humanitarian law or the laws of war] violations by the Russian forces in their conduct of hostilities. If they had respected their IHL obligations in terms of distinction, proportionality and precautions in attack and concerning specially protected objects such as hospitals, the number of civilians killed or injured would have remained much lower. Similarly, considerably fewer houses, hospitals, cultural properties, schools, multi-story residential buildings, water stations and electricity systems would have been damaged or destroyed. Furthermore, much of the conduct of Russian forces displayed in the parts of Ukraine it occupied before and after 24 February 2022, including through its proxies, the self-proclaimed "republics" of Donetsk and Luhansk, violates IHL of military occupation.

In addition, the mission of experts looked at violations of international human rights law [IHRL] and concluded that it had "found credible evidence suggesting that such violations concerning even the most fundamental human rights (right to life, prohibition of torture and other inhuman and degrading treatment and punishment) have been committed, mostly in the areas under the effective control of Russia or entities under overall control of Russia."

It also concluded "that some patterns of violent acts violating IHRL, which have been repeatedly documented in the course of the conflict, such as targeted killing, enforced disappearance or abductions of civilians, including journalists and local officials, are likely to meet" the qualification of a widespread or systematic attack directed against a civilian population. "Any single violent act of this type, committed as part of such an attack and with the knowledge of it, would then constitute a crime against humanity."

The Report's findings are impressive, taking into account that the three experts were to complete their report within just three weeks, did not receive assistance from Ambassador Alexander Lukashevich, the Permanent Representative of the Russian Federation to the OSCE (who "considered the Moscow Mechanism largely outdated and redundant" and who "declined to nominate a liaison person but referred the Mission to the official statements and briefings of the Government of the Russian Federation, which made it impossible for the Mission to take account of the Russian position on all pertinent incidents, except based on official open sources and websites") and were not able to visit Ukraine themselves.

Another positive element of the Report is that it has looked at the conduct of *both* sides of the conflict and thus also at the alleged violations by the Ukrainian forces. This is a welcome and necessary approach, as <u>even Ukrainian authorities</u> using the hashtag 'Russianwarcrimes' on social media should not forget that they are there to investigate international crimes *as such*, irrespective of the nationality of the perpetrators. On Ukrainian alleged violations, the Report noted: "Some violations and problems were also identified regarding practices attributable to

Ukraine. The Mission is in particular concerned about the treatment of prisoners of war, who originally were considered criminals, and treated in ways that are incompatible with Geneva Convention III." But even though "violations [of IHL and IHRL] occurred on the Ukrainian as well as on the Russian side […] [t]he violations committed by the Russian Federation […] are by far larger in nature and scale."

The chance is considerable that the conflict, now concentrating in the east of Ukraine, will last for a long time to come. The Bucha massacre has shown how the Russian forces can behave in areas under their control, which does not bode well for the inhabitants of the territory currently under Russian control.

It is therefore of the utmost importance that the international community, and the OSCE is still part of that constellation, continues to keep a close watch. Stephanie Liechtenstein has already reported that Ambassador Michael Carpenter, US Permanent Representative to the OSCE, told journalists "that there may be utility in reinvoking the Moscow Mechanism". And just before this piece was published, it was indeed announced that the Moscow Mechanism was invoked a second time in response to Russia's war in Ukraine.

In these turbulent, emotional, partisan and chaotic times, we need careful and trustworthy analyses looking at all violations and a sober application of the law. Only this will help to dismantle disinformation and will do justice to the brave witnesses stepping forward to tell their gruesome accounts and the victims trying to find out what happened to their loved ones. It is because of reports such as the Report discussed in this post that accountability mechanisms such as the International Criminal Court (that will definitely make grateful use of the Report's findings) are strengthened and history more generally can unveil the truth of what is happening in Ukraine.

It is of course true that the Report, good as it is, will not be enough to save the OSCE from its uncertain future. As Cornelius Friesendorf and Stefan Wolff have convincingly argued, "[u]ltimately, whether the OSCE can continue as a platform for dialogue between East and West, however minimal for the time being, depends on Russia." Nonetheless, this short post has been written to remind people that the OSCE, even now it is crippled, can still be of relevance in these daunting times. The OSCE is not only about security and dialogue but also about standing up for human rights. We owe it to the victims of this war that we do not bow our heads, throw in the towel and accept the Organization's total demise, but focus on positive elements such as the Report described in this post, while the Organization as a whole is being diagnosed and prepared for the new world that awaits us.

CAN CO-OPERATIVE SECURITY RETURN TO THE OSCE?

Philip Remler[25]

Shortly before Russia began its war against Ukraine, the American diplomat and academic Stephen Sestanovich pointed out that Russia's aims appeared to be self-contradictory: Russia could either try to coerce Ukraine into its "camp" or it could try to pursue revisions to the international security order in line with the draft agreements it sent to the US and NATO in December 2021. Pursuing either path would make the other problematic. In the author's view, Russia would have preferred to re-make the security order, using the military build-up around Ukraine to scare the West into talks and concessions. Changing the security order first would put Russia in a better position to pursue its objectives in Ukraine later. The West refused to discuss the unilateral concessions that Russia was demanding (packaged as "security guarantees"), offering to negotiate only on reciprocal measures. Putin then chose to invade Ukraine.

This course of events has had profound effects on the "rules-based order" that Russia, and most frequently Foreign Minister Lavrov, condemn as an artificial construct imposed by the West. Russia has made clear that it aims to replace that order with a narrowly-defined "international law" limited to the UN Charter and decisions of the UN Security Council, in which the Permanent Five — including Russia — have a veto. This would return the security order to the Westphalian world that Russia wants: a small set of great powers, each surrounded by client states, competing for power and influence and imposing their decisions on their clients. Such a world affords little space for co-operative security, privileging instead deterrence-based security punctuated by rare agreement among the great powers, as in the Cold War.

Co-operative security, in contrast, is based on the "rules-based international order," which is not the amorphous western project Lavrov has claimed it to be, but rather the concrete web of multilateral and bilateral treaties and agreements reached since the first nuclear arms limitations of the 1960s and 1970s. These treaties and agreements came to cover a comprehensive spectrum of international life. In OSCE terms, the rules-based order engages all three dimensions: hard security, including arms control and confidence building; economy and environment; and the human dimension. The Soviet Union and later Russia participated

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in drafting and signed almost all of these documents, bilateral and multilateral, and such political declarations as the Helsinki Final Act (1975) and the Charter of Paris (1990), whose signatories committed themselves to strive towards human rights and democratic governance.

The arms control basket has been severely eroded in recent decades as treaties lapsed, beginning with the 2002 US withdrawal from the 1972 Anti-Ballistic Missile treaty; after tit-for-tat withdrawals and mutual accusations of violations and bad faith, most hard security treaties are now defunct, leading to a gaping hole in co-operative security with deleterious effects on the rules-based order. While a number of economic/environmental institutions remain, Russia's exclusion from the Council of Europe and the UN Human Rights Council show that the human dimension now engages few commitments from its signatories.

Replacing the "rules-based order" with Russia's *sui generis* definition of "international law" would mean, at best, peace based on deterrence or, more likely, an end to the peace Europe has known (with regional exceptions) since 1945. However, Russia does not have the capacity or credibility to impose its system on Europe. At some point in the future, co-operative security may return if Russia changes its outlook; and the OSCE would still be the logical venue for talks.

But talking does not necessarily imply productive negotiations. And — even leaving aside Russia's invasion of Ukraine — strict reciprocity just for the concessions Russia demanded in December 2021 would require the West to demand in return withdrawal of Russian troops and equipment a similar distance from NATO borders; withdrawal of Russian troops and equipment from separatist entities over which Russia gained control since 2014 via annexation or crypto-annexationist "treaty," including Crimea, Luhansk, Donetsk, Abkhazia, and South Ossetia; renunciation of future territorial enlargement of the Russian state; discontinuing military exercises near NATO borders; etc. These demands only mirror the demands Russia has already made on the West. A head-on clash of these sets of demands cannot lead to productive negotiations. In addition, none of this leads to relief — long sought by Russia — from sanctions imposed by Western countries in response to specific, concrete actions Russia has taken in recent decades. Relief presumably requires Russia's demonstrated rectification of those actions, some of them unrelated to Russian military incursions.

Any negotiations on co-operative security must therefore start off with a more realistic agenda. That can only happen when both sides agree to ditch demands for security concessions — however disguised as "guarantees" — and get down to work on co-operative security that is

balanced, reciprocal, and mutual, echoing the type of work the USSR and US engaged in on nuclear weapons, even as they faced off with each other in other fields. When can that happen? There is no timetable. Russia would first have to find a face-saving way to withdraw its 2021 proposals to the US and NATO to clear the agenda. When that can happen is anyone's guess.

Credibility must also reappear between the sides. For the West, Russia's responses to incidents such as the Litvinenko murder (2006), Skripal assassination attempt (2018), wrongful deaths of 298 civilians aboard MH-17, professions of non-belligerence in the Donbas wars (2014-2022), and assurances that Russia had no intention of invading Ukraine (2022) are a fog of misdirection and "alternative facts" that have eroded to nothing the credibility of all Russian official statements. Russia has its own list of grievances against Western credibility. The motto "Trust but verify" cannot be assumed; until it can, the watchword must be "Verify first".

It may take decades to meet the conditions necessary for productive discussions on co-operative security. The task before all of us is to keep the OSCE alive and functional until it can once again serve as the principal forum for co-operative security talks. The present author wrote last year that the OSCE was returning to its CSCE origins as a forum for dialogue between hostile armed camps; right now it is not even capable of that.

IMPLICATIONS OF THE WAR IN UKRAINE FOR THE OSCE

Oleksiy Semeniy[26]

Russia's war of aggression against Ukraine is a vital test for the OSCE. For many years the OSCE has been seen as failing to prevent or de-escalate (not to even mention sustainably settle) conflicts in Europe. It now needs to be united and deliver feasible results to remain a useful element of European security.

However, its activity in Ukraine from 2014 until 24 February 2022 was also partially successful in organizational terms. It is worthy of astonishment how swiftly the OSCE succeeded in reorienting its country office and launched its special monitoring mission (SMM) in Ukraine in 2014. For those eight years the SMM was mostly an effective tool for many de-escalatory efforts and a number of successful solutions were implemented to tackle problems on the line of contact. But these successes were not enough and were underpinned by a lack of political backing in Vienna, due to growing political drifts and conflicts among some participating States, as well as a number of problems with efficiency at the Secretariat level. This assessment does not deny the efforts undertaken by OSCE institutions or the Secretariat, but mainly refers to the tempo and quality of reactions to negative developments in and around Ukraine. The quite destructive role of a number of OSCE participating States that wanted to block some productive initiatives also needs to be recognized. Many of the problems relate to the lack of adequate institutional capacity of the OSCE, because participating States for many years could not agree on necessary reforms, tolerating possible inefficiencies of the OSCE in critical situations. Therefore, Ukraine doubts that the OSCE can help settle the war and conflict with Russia. This negative attitude is less visible by people or organizations who have co-operated with the OSCE in different formats or been confronted with its activities – they have had possibilities to see the concrete impact of OSCE activities. However, the OSCE has not sufficiently promoted its results (even if moderate) and their practical value to key stakeholders inside Ukraine, especially to wider Ukrainian society. On the other hand Ukrainian authorities and society have expected much more clarity (i.e. on stating the facts and identifying the perpetrators without using general diplomatic phrases) and prompt reaction from OSCE representatives (either in the SMM or the office in Kyiv) to the violations from the Russian side (including its puppets in Donetsk and Luhansk). It may be these expectations were too high for OSCE staff because of

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the Organization's general policy to be viewed as a neutral and impartial actor (in order to keep Russia on board), but this also damaged the Organization's image.

This critical stance from Ukraine regarding the OSCE, underpinned by current high demand in Ukraine for very quick and feasible results (what would always be problematic for the OSCE to demonstrate) in any peace settlement, makes its difficult now to find appropriate clues for the Organization's positive role even in the event of a ceasefire. At the same time the OSCE (possibly with the UN) will join foreign partners to try to facilitate peace in the current Russia-Ukrainian war, mainly due to its previous experiences in Ukraine and the Organization's capacities. Therefore the Secretariat should prepare for situations such as a ceasefire and subsequent monitoring, and discuss it with the main conflict parties. Consultations with some OSCE participating States in advance about the modalities, scope and form of possible assistance (such as financing) would be a practical first step. In the case of such an approach, the OSCE could offer itself as a high value mediator and facilitator for Ukraine in any peace/settlement process, as well as attract more political weight in the wider European security architecture.

However, the OSCE lacks a clear success story for settling a conflict in Europe over the last few decades. This fact undermines its ambitions to play any important role in the current European security architecture and threatens to eliminate it as an actor in any future structure. The latest wars in Ukraine and in Nagorny Karabakh, where the OSCE did not play any role in preventing the wars from unfolding and still does not play any substantial role in the negotiation processes, once more underscore the Organization's low profile and credibility.

Therefore the war in Ukraine (with every month that goes by) further risks reducing the OSCE to a "high-level discussion club on European security issues". This, in turn, could affect its resources. In such challenging times many governments cannot explain to their own taxpayers the reasons why they should finance or seriously engage in the Organization, which seems to fail in delivering results in its main area.

The idea of co-operative security is also under substantial stress. To create the necessary bridges for future development, there needs to be clarity in definitions regarding rule breakers. Such a move could be complicated because of the consensus rule – rule breakers would have to condemn their own actions. But trying to avoid clear cut definitions regarding fundamental issues is not viable. If any one of the participant States violates core principles, thus challenging the security of all others on the continent, the Organization should be capable of

(re)acting decisively. Imposing restrictions and collective measures against rule violators could support co-operative security. Defining clear red lines, which nobody within the OSCE space may violate, and defending these lines by all available means (including by military means, involving respective security structures) could be a way out of the current crisis. At the same time, the OSCE should develop mechanisms for re-integrating rogue actor(s).

Hence, there needs to be a combination of a future vision of the European security order and realistic mechanisms to sustain it, paying special attention to the enforcement elements regarding rule breakers and incentives for them to return to common rules.

To move forward, initiatives should be taken by Troika States who could organize a process of developing a new vision for the OSCE. This vision could be developed by a group of high-level experts and then presented for discussion and modification to all OSCE participant States. The vision should include a place and roles for all participant States within a new architecture. Moreover, the three OSCE dimensions may be amended by including issues such as cyberspace and AI, energy, and food security. The OSCE could aim to make these changes by the 50th anniversary of the Helsinki Final Act in 2025. The Secretary General should play a leading role in enabling reform, and build upon the efforts of her predecessor, Thomas Greminger.

The Russian war against Ukraine provides a chance for the OSCE to adapt to the new European security environment. To serve as a platform for European security, it should be capable of fighting for its own rules and values. If the OSCE and its structures don't succeed in this, we will study its experience in the history books as just one more failed organization.

"DIE ANOTHER DAY" OR HOW THE POST-WAR AGENDA MAY BECOME A NEW LEASE ON LIFE FOR THE OSCE

Fred Tanner[27]

While the UN has been chastised for its inability to effectively engage in Russia's war on Ukraine, the OSCE has become a real casualty of war. The world's largest regional organization has been playing an important role in managing crises in the former Soviet space ever since the end of the Cold War. It has established mediation mechanisms, sometimes together with the UN and the EU, in Georgia, Moldova, Nagorno-Karabakh, and Ukraine. It has also become the guardian of arms control agreements, such as the Conventional Forces in Europe (CFE), the Open Skies Treaty and the Vienna Document on Confidence- and Security-Building Measures. Finally, with the *Structured Dialogue*, the Organization served as the only multilateral inclusive dialogue platform, that brought together Russia, Ukraine, the US, and all other states from the Euro-Atlantic and Eurasian regions. This platform also gave smaller states a voice on European security.

With the unprovoked Russian attack against Ukraine, all of these achievements and activities are now in limbo: Russia violated the entire Helsinki Decalogue and, thereby, put the future of the OSCE at risk. It is true that the Organization has been in decline for a long time. The Putin speech in 2007 at the Munich Security Conference was a harbinger of Russian contempt against the OSCE, or more specifically against the OSCE's interactions with and support of NGOs that were allegedly involved in color revolutions of former Soviet republics, such as Georgia and Ukraine. Russia often blamed the OSCE for embracing policy issues and projects in the human dimension "East of Vienna" that were driven by Western agendas and financed by extrabudgetary funds.

The OSCE experienced a revival under the Swiss chairmanship in 2014, with the creation of a crisis management structure in Ukraine after Russia annexed the Crimea illegally and supported militant separatists in the Donbas. The armed conflict in Donbas led to the Minsk ceasefire, the creation of a Trilateral Contact Group and the deployment of two new OSCE missions: one in Russia at the Russian-Ukrainian border (Border Observation Mission-BOM) and one primarily in Donbas, for the observation of the Minsk mandated ceasefire agreements

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(Special Monitoring Mission to Ukraine — SMM). The SMM was one of the largest OSCE missions ever, with an annual budget of over €100 million.

With Russia's military offensive against Ukraine in February 2022 and the emergence of a weaponized polarization between Russia and the West, the OSCE has lost its role as a dialogue platform and as a mediator. Russia closed down the BOM last year and vetoed the extension of the SMM mandate in late March 2022. The Minsk agreements have become dysfunctional with the Russian recognition of the separatist "republics" Donetsk and Luhansk as "sovereign and independent states".

With Russia opposing everything related to Ukraine and vice versa, the consensus-based Organization is deadlocked and will have no approved resources as long as this situation persists. But the ultimate demise of the OSCE may not be today, and it could "die another day". Numerous excellent publications have outlined what possible scenarios would be suitable for the Organization in such dire straits. They range from "back to basics" with a return to conference diplomacy, to reducing the co-operative space with Russia, to reform efforts that could transform the OSCE into a treaty-based institution.

1. Post-conflict rehabilitation agenda

In my view, the overwhelmingly destructive effects of Russia's war on Ukraine will require an unprecedented international reconstruction effort in support of a post-conflict Ukraine, regardless of the war outcome. This will represent an opportunity to the OSCE. It is true that the end of the war is still beyond the forecasting horizons, but Every War must end, as Fred Iklé, the Swiss-born US Under Secretary for Defense Policy, argued in his accomplished book (1964). "To win peace" may take months or years. Regardless of the timing, the OSCE as an inclusive European security organization should soon be prepared to offer Ukraine and Russia its toolbox and programmatic rehabilitation proposal. War termination and multifaceted post-conflict rehabilitation and reconstruction may become a silver bullet for the Organization, especially in the political-military domain.

The OSCE has been engaged in post-conflict reconstruction and monitoring since the dissolution of the Soviet Union and the implosion of Yugoslavia after the end of the Cold War. The OSCE had post-conflict reconstruction mandates in Tajikistan (with the UN in the lead), Albania, Croatia, Macedonia, Kosovo, Bosnia and Herzegovina, and Ukraine. Most of these reconstruction and peacebuilding activities were carried out in partnerships with the UN, the EU, and in some cases also with NATO (Kosovo, Macedonia).

The UN Basic Guide on Disarmament argues that in post-conflict settings, the immediate destruction of surplus and collected weapons and ammunition removes possible sources for new conflicts and builds confidence among communities concerned. This is even more a case when there has been a massive cross-border inflow of weapons and volunteer fighters. As to the OSCE, while relying on the *Decision on Small Arms and Light Weapons* (drafted by the OSCE Forum for Security Co-operation in 2009), it can remind belligerents in the OSCE area to include "safe storage and stockpile management issues of small arms and ammunition" in the peace agreements that may be negotiated.

The OSCE has a solid track record with the collection, destruction and stockpile management of small arms and light weapons (SALW) as well as ammunition, especially in the Western Balkan region where some projects are still ongoing. In addition to SALW, there will be a need by Ukraine to clear explosive hazards, improvised explosive devices (IEDs), UXO, as well as map and clear mines. Furthermore, in view of the inflow of man-portable air defense systems that represent a clear threat to civilian aviation, a mandate with an important portfolio will be required. Dealing with SALW and possibly heavy weapons would involve the drafting of a Baseline Assessment Study, together with awareness building regarding the danger of illicit proliferation of weapons in a post-conflict region. It will also necessitate the training of national capacities and, finally, the establishment of a nexus to Border Security Management across the OSCE.

The OSCE could also assist in the wider peacebuilding agenda of a post-conflict Ukraine. In the post-conflict Western Balkan region, for instance, the OSCE dealt with restitution of occupied territories and the unimpeded return to homes and properties of refugees and displaced persons. The OSCE/ODIHR will be challenged to organize elections on national and local levels, possibly within a new geographical reality and in view of the millions of Ukrainian voters still abroad.

The work of the OSCE Project Co-ordinator in Ukraine (PCU) should continue in the post-war setting, as its current mandate includes support to the government in domains such as constitutional reform, legal and criminal justice reform, human rights and legal education.

2. Ceasefire monitoring

Drawing from the rich experience of the OSCE SMM that has been active across Ukraine, and especially in the Donbas region, the OSCE could offer to resume ceasefire monitoring between Ukraine and Russia should there be a stalemated conflict ending with a ceasefire or peace

agreement. The Conflict Prevention Centre of the OSCE has elaborated in recent years useful and extensive lessons learned on ceasefire monitoring in a semi-permissive environment. Part of the recommendations are contingencies and operational commitments negotiated by the TCG that include the separation of forces, withdrawal of weapons, disengagement zones, monitoring and reporting, de-escalation and confidence building measures.

Given such an ambitious post-conflict agenda, the inevitable question to address is how the OSCE can continue to function and hedge against the lack of consensus and decision-making inertia. Short of a consensus decision, there may be some kind of *sauve qui peut* solution whereby the extension of the PCU mandate or even the deployment of a new mission for SALW and remnants of war destruction and stockpile management could be granted upon invitation by Ukraine without consensus of all 57 participating States, financed by extrabudgetary funds, at least for a certain period. Such a solution would require leadership with diplomatic skills and lots of sensitivities.

Ceasefire monitoring would require, in turn, consent by both Ukraine and Russia. In contrast to the EU, for instance, the OSCE could deploy a status-neutral mission, that may be required in view of the unknown future status of the Donbas "republics".

Mark Twain quipped that history does not repeat itself "but it rhymes"; similarly, the history of the OSCE in a post-war Ukraine will not repeat itself; there will be no new Minsk agreements and no new SMM, but some post-conflict arrangements will be similar to those of the past.

PREPARING FOR FUTURE OSCE MISSIONS: LESSONS FROM THE SPECIAL MONITORING MISSION (SMM) TO UKRAINE

Andreas Wittkowsky[28]

The largest international peace operation in Ukraine has been relegated to history. Its demise began with the Russian military attack on Ukraine and the temporary evacuation of international mission staff at the end of February/beginning of March 2022. On March 31, the OSCE Permanent Council was unable to extend the mandate of the Special Monitoring Mission (SMM) to Ukraine, as the Russian Federation objected to its continuation. This put the mission into an administrative and ultimately a closure mode.

Discussions have begun on whether (and when) a newly mandated peace operation could contribute to peace, stability and security in Ukraine. The "fog of war" makes it difficult to determine what concrete role such an operation could play, what tasks it should be given, what resources would be needed, and who could issue the corresponding mandate.

We do not know whether there will be a negotiated ceasefire between Russia and Ukraine and whether it might include a mandate for a peace operation. We do not know whether currently occupied territories will have to be reintegrated into Ukraine after the end of hostilities. And we do not know whether and what type of confidence-building and peacebuilding activities will be needed on the ground. All this depends on the further course of the war and the resulting power constellations. At present, some observers consider a ceasefire monitoring mission the most likely option for the future.

Another question is whether the OSCE would be able to mandate such an operation. The deployment of an OSCE field operation does not only require a formal invitation by the host country but also a consensus decision by all 57 participating States in the OSCE Permanent Council based in Vienna. The OSCE's initial comparative advantage of having a ready-made monitoring mission framework in place with the SMM is now quickly dissipating, as former

mission staff move on to other professional activities. Moreover, many of the mission's assets left in Ukraine have been destroyed, damaged or simply lost since the start of the war.

Still, history has also taught us that windows of opportunity emerge unexpectedly. So there might be a political constellation in which an OSCE field operation to monitor and verify a ceasefire is indeed in demand. In the end, this will depend on Kyiv's wish for such a mission and whether Russia agrees to the mandate, both in terms of tasks and the area of operations.

The OSCE can and should prepare for such a scenario. This suggests that it is the right time for the Secretariat to systematically evaluate the experiences of the SMM and learn the lessons of the obstacles which had hampered the mission throughout its deployment provided.

Setting up a mission from scratch

The SMM to Ukraine was established in March 2014 with the mandate to reduce tensions and foster peace, stability and security, as well as to monitor and support the implementation of all OSCE principles and commitments. Following the annexation of Crimea by Russia, and given the tense situation in Eastern Ukraine, the SMM was to be deployed quickly. Since the OSCE had not run a mission of that type since deploying the Kosovo Verification Mission in 1998, there was little institutional knowledge in the Secretariat that could guide its establishment.

The Minsk agreements of September 2014 and February 2015 changed the mission's posture fundamentally. The mandated number of international civilian personnel grew from an initial 100 to 1,000, although actual numbers remained somewhere above 700. Almost two thirds of these were deployed to the Donetsk and Luhansk Monitoring Teams, operating on both sides of the Line of Contact.

In monitoring and verifying the Minsk obligations the SMM faced the challenge that the ceasefire was never fully observed, the armed conflict in eastern Ukraine continued with low intensity and its freedom of movement was often restricted. After 2020, mission operations were additionally affected by Covid-19, severely reducing staff availability, restricting personal contacts to counterparts and further hampering the movement of monitors.

While being faced with increasing external challenges, the SMM managed to fulfil the key aspects of its mandate. The latter was broad enough to cover its support to implement the Minsk provisions. The mission focused on factual, impartial reporting, the facilitation of local

windows of silence and confidence building measures in co-operation with the Trilateral Contact Group chaired by the Special Representative of the OSCE Chairperson-in-Office.

Still, a number of pertinent internal problems persisted and were regularly raised by seconding participating States and SMM staff. These testified to the fact that internal organizational development was a difficult endeavor for the mission.

1. Planning mandate implementation

The mandate of the SMM encompassed a range of activities that were not spelled out in detail. This gave the mission sufficient flexibility to react to changes on the ground but implied that the mandated activities were supposed to be emphasized differently at different points in time.

That played out especially with respect to the Human Dimension (HD) as a core aspect of the OSCE's comprehensive approach to security, the role of which was always contested within the mission as well as among participating States. One faction of the mission held that HD should be pursued as a separate strand of activities, in parallel to ceasefire monitoring and the like. Others reasoned that the HD should be mainstreamed into all mission activities. While it is not unusual that there are opposing views on how to address cross-cutting issues, this question was never systematically resolved. As a result, different locations (teams and hubs) applied different HD approaches at different times.

2. Unifying Mission Structures and Procedures

As already noted, there was little institutional knowledge that the OSCE Secretariat could chip in as guidance, and the SMM grew substantially after the Minsk agreements. The respective mission structures and procedures were largely designed by the first mission leadership and soon needed to be adjusted. Initially, there was a fair amount of discretion left to the teams in the field, resulting in diverse operational settings that varied between monitoring teams and locations. In the years that followed, management found it difficult to change the settings created in the early days.

Gradually, Standard Operational Procedures (SOPs) were developed for patrol planning and the like, providing the mission with a more unified structure. Nevertheless, SOPs were often regarded as cumbersome, not fitting the conditions in the field. Moreover, important operational knowledge was regularly lost when staff left the mission, as a functioning knowledge management system was absent and proper handovers were the exception.

3. Mobilizing Human Resources

Human resources are the most important asset of any mission. Here, the SMM was confronted with serious bottlenecks throughout its operation. Recruitment processes took far too long, resulting in serious backlogs to fill vacancies at almost all times.

In mobilizing staff, the terms of reference for monitoring officers, who represented the majority of mission personnel, turned out to be overly academic, not matching the qualifications needed in the field. Monitoring officers with university degrees found themselves utilized well below qualification. And while statements vis-à-vis seconding states repeatedly claimed that HD experts were in dire need, mission practice showed they were not. All this led to unnecessary frustrations among seconded staff.

4. Providing Management Support

The establishment of the SMM also represented a management challenge. The leadership of the SMM, as in many other peace operations, was appointed in a political bargaining process. As a result, mission leadership had a profound background in international diplomacy. But managing a field operation that quickly grew to some 1,200 international and local staff was not something they were best prepared for. A contested division of labor between the deputy chief monitors and an unclear role of a chief of staff did not help either.

Effective middle managers with the respective skills were also a scarce resource, which negatively impacted on staff's motivation and discipline.

5. Fulfilling the Duty of Care

The SMM, and partly the seconding states, underestimated the extent of its duty of care responsibilities. As the ceasefire was frequently violated, mission staff were regularly exposed to risks such as exchanges of fire, mines, unexploded ordnance and similar threats. While the SMM successfully introduced a system to support staff after security incidents, its overall security management left many seconding states and their secondees in doubt about whether it was sufficiently fit for the challenge. The 2022 evacuation proved that point.

Complaints of poorly maintained vehicles, inadequate protection gear, and defunct communication equipment were widespread. These deficits exposed personnel to much greater risks than necessary.

6. Strengthening Mission Oversight

Finally, mission oversight was fuzzy. The authority over the mandate lay with the participating States, which were not always unified in their understanding of SMM priorities. They were represented by the annually rotating Chairperson-in-Office. The Secretariat supported the mission in its everyday operations. In reality, there was often a perceived rift between the mission and these institutions. The SMM leadership in part over-used its high degree of discretion and avoided advice provided.

Takeaways for the Future

There might be one positive in the unexpected closure of the SMM: It provides the chance to reflect on the challenges which were difficult to address in the day-to-day bustle of a mission operating in extremely challenging circumstances. The opportunity to invest in identifying and learning lessons that can guide planning for future missions is unmissable. Such an exercise should address, and further spell out, the following issues:

- With a view to providing strategic guidance for recruitment, operations and procurement, instruments that the UN and the EU apply in their missions can be explored. Strategic documents like a mission implementation plan or an operational concept regularly define, update and communicate the priorities of an operation and provide orientation to mission staff as to how to implement the mandate. Further guidance is made available by concepts for specific areas of activities. They foster operational coherence and allow a mission structure to follow its function.

- The set of SOPs that the SMM developed should be reviewed, at best involving persons who worked with them in the field. Having them ready for the future would be an asset. Identifying the pitfalls that needed to be overcome when introducing knowledge management systems or monitoring technology is equally valuable.

- Recruitment would benefit from a review that aims at more speedy placements that better meet a mission's requirements. Terms of reference for vacancies should be derived from the real demands of the mission. Also, the needs for induction and essential job-related training could be assessed.

- There are tested ways to support leadership in peace operations. In some missions, a key role in relieving the political leadership falls to a chief of staff. It would also be useful to assess which trainings can help line managers cope with their work, and how to raise their awareness of how to communicate in a diverse mission.

- Importantly, duty of care aspects need to be recognized as core issues for mission leadership, with mission security being on top of the list. Also, it would be useful to reflect on instruments and procedures that increase staff satisfaction and protect them from harassment.

- Finally, considering how the responsibilities between the Chairperson-in-Office, Secretariat and the mission can be delineated more clearly could contribute to more accountability. Also, Secretariat capacities might need to be looked at.

Make no mistake — similar problems to those that plagued the SMM are also fairly typical for other international peace operations. This suggests including a peer exchange with other organizations into a lessons learned exercise.

THE OSCE'S MEDITERRANEAN DIALOGUE

Monika Wohlfeld[29]

Introduction

This paper explores the potential impact of the deterioration of relations within the Organization for Security and Co-operation on its Mediterranean dialogue with a number of countries in North Africa in the context of several scenarios regarding the future of the OSCE ('no business as usual', OSCE without Russia, OSCE as a Conference and demise of the OSCE).

Mediterranean Dialogue of the OSCE

The OSCE maintains special relations with six MENA countries as Mediterranean Partners for Co-operation (MPS): Algeria, Egypt, Israel, Jordan, Morocco and Tunisia. This partnership emerged from the Helsinki Final Act agreed upon in 1975, which asserts that security in Europe is closely linked with security in the Mediterranean area as a whole. Malta's insistence on the inclusion of the Mediterranean Chapter and threat to block the decision on the Helsinki Final Act caused considerable tension but was eventually successful. Nevertheless, the difficulties in bringing together the views of states with very different Mediterranean interests and policies continue to be substantial. Some participating States do not wish to overextend an already stretched organization, or wish to maintain its focus on certain regions in the OSCE area. Mediterranean Partner states also engaged only cautiously due to regional tensions and domestic considerations. Thus, the substance of that relationship has emerged mainly through painstaking step-by-step efforts by interested participating States, Partner states and the OSCE Secretariat and Institutions.

Since Partner states are not bound by the OSCE *acquis* of documents and decisions and do not contribute to the OSCE budget, participating States chose to encourage them to consider some aspects of the OSCE's commitments while offering limited support for this. The formulation that was developed in 2003 called for voluntary implementation.

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The Partnership is mostly based on:

- **Access to regular work of the Organization:** This access allows Mediterranean Partner states to be at the same table and speak during regular political deliberations of the Organization, including the main decision-making bodies (the Permanent Council and the Forum for Security Co-operation), without however being part of decision-taking; to engage in high level contacts and exchanges; and to contribute to OSCE operations as well as participate in OSCE seminars and projects.

- **Special structures created for the dialogue:** These include a Mediterranean Partners for Co-operation Group, chaired by the incoming Chairmanship of the Organization (in 2022 North Macedonia) and annual OSCE Mediterranean conferences. They also include, upon request, specialized seminars and projects and other activities on subjects of interest to Mediterranean Partners, run in a decentralized manner by the OSCE's Secretariat and Institutions. Projects with Mediterranean Partners take place mostly within the OSCE area, due to the requirement of a Permanent Council decision for any activities out of the OSCE area. Limited funding is provided through voluntary contributions by a number of participating States, with meagre regular budget funding available for the OSCE Secretariat's Section for External Co-operation.

In the past, it has been highlighted that the Mediterranean Dialogue **benefits the OSCE participating States**, including those along the northern rim of the Mediterranean, whose security is deeply affected by developments in North Africa, for example in the context of migration, trafficking, and counter-terrorism. It has also been suggested that the dialogue **benefits the Mediterranean Partners**, in terms of norms diffusion in the context of co-operative and comprehensive approaches to security, access to and a voice in deliberations on the future of European security and a platform for interaction with states "from Vancouver to Vladivostok" and some support on voluntary implementation of aspects of the OSCE's *acquis*. Significantly, the impact of Russia's war against Ukraine on food security and economic stability in a number of Mediterranean Partner States shows clearly how events in the OSCE area affect the security of North African states, and vice-versa.

Expectation management has always been part of the equation in the context of the Mediterranean dialogue, with some participating States and some Mediterranean Partner states expressing reservations or limits about its scope and impact, and others voicing their

disappointment with its limited nature and insufficient impact. Overall, despite considerable relevance of the OSCE *acquis* for the Mediterranean region, and an increasingly complex situation in which Mediterranean Partner states find themselves, most recently, due to the impact of Russia's war against Ukraine, the Mediterranean dialogue continues to be process-oriented, rather than result-oriented.

OSCE's Future Scenarios and Impact on the Mediterranean Dialogue

- Mediterranean Dialogue in the context of the OSCE's 'no business as usual'

The Russian war against Ukraine and the 'no business as usual' situation within the OSCE has also affected the Mediterranean dialogue. Access to regular work of the Organization allowed Mediterranean Partner states to witness first-hand the breakdown of co-operative security and the cessation of constructive approaches between Russia and the US and EU countries. Delegations of the Mediterranean Partner states always valued being able to have a finger on the pulse of European security by directly following the debates in the OSCE Permanent Council but also in the Forum for Security Co-operation. In the current situation marked by unconstructive exchanges in these fora, however, they seem reticent, with MPS Ambassadors largely absent and their delegations silent. The fact that "Russia's attack on Ukraine has put governments across the [MENA] region in a strategic bind" could play a role in the lack of engagement of Mediterranean Partners. Russia's war against Ukraine put pressure on MENA and other states to commit to one side — Russia or 'the West' — which in turn may have a variety of consequences in the region. Furthermore, the circumstances of the war and its impact on organizations such as the OSCE may affect thinking in the MENA region of the applicability of the concept of co-operative security, the value of regional organizations, and the concept of multilateralism.

In terms of special structures created for the dialogue, no meetings of the Mediterranean Partners for Co-operation Group took place from the beginning of the war until the end of May. The well-prepared and attended May meeting focused on climate change, an important issue for the Mediterranean region, and featured expert speakers from participating States and MPCs. While the choice of subject indicates the desire to focus on a 'neutral' subject, EU countries and the US addressed the issue of the fallout of the war on North Africa's food security in their interventions.

The fallout of the war on North African countries differs, but includes *inter alia* severe food insecurity and financial and budgetary pressures due to energy prices, as well as prospects of

unrest and migration. The framework of the OSCE relationship with Mediterranean Partner states would allow for discussion of some of these aspects and also potentially some limited practical support on issues such as connectivity, food security, environmental degradation, human rights of migrants, trafficking and others that are related to the situation created by the war, should Mediterranean Partners wish it. As in the current situation it is unlikely that the problem of requiring a Permanent Council decision for any activities in Partner states can be addressed, and that additional voluntary funds in significant amounts be made available, this practical support would however most likely be limited.

- Mediterranean Dialogue in the context of the OSCE as a Conference

It is currently not possible to exclude a scenario for the Organization becoming a Conference (similar to the Conference on Security and Cooperation in Europe, from which the Organization emerged in the 1990s). The far-reaching deterioration of relations within the OSCE may have an impact on budget decisions and mandates' extensions, with the Organization returning to being a negotiation platform only.

It is unclear how relevant such an organization/conference would be in terms of observing and participating in European security deliberations for the Mediterranean Partner States. It is however likely that they would continue to be accommodated in such a framework and maintain some interest in observing and contributing to deliberations and diplomatic contacts.

It is also possible that participating States and Partner states would wish to maintain the special structures created for the Mediterranean dialogue. However, the operational aspects as well as seminars and events related to support for voluntary implementation of OSCE commitments would likely be dropped. Obviously, this implies that any potential more practical efforts to address the fall-out of the war for the Mediterranean Partners would also be impossible in this framework. The US and EU countries, as well as Mediterranean Partner States, will potentially be able to turn to other frameworks for this purpose. Apart from the UN, these will however not include East European countries directly.

Arguably the OSCE turning into a Conference would lead to some deterioration of the Mediterranean dialogue and exclude practical support for MPS. Given the current process-oriented nature of the Mediterranean dialogue, such deterioration is unlikely to make a significant difference for participating States and Partner States. However, such a development would limit any efforts of participating States and Mediterranean Partners to work together on areas of common interest at a delicate time for the Mediterranean Partners. Furthermore, the

OSCE turning into a Conference may have a negative impact on perceptions of non-zero sum, co-operative approaches to security in the Mediterranean region and of the value of regional co-operation and multilateralism, with longer term implications for the region.

- OSCE without Russia

This brings us to another scenario — that of an OSCE without Russia (and potentially some other Eastern European states). What would this scenario mean for the Mediterranean dialogue? If it would allow for a return to constructive relations in the decision-making bodies, that could also have an impact on the Mediterranean dialogue. It would potentially allow for more constructive engagement of participating States and Partner States in the context of Mediterranean dialogue, including possibly on the impact of the war on North African states.

Russia has been among the countries responsible for insisting on a focus of the Organization on its own area, and for complicating efforts to hold activities in Partner countries, thus limiting the ability of the OSCE to engage with and provide support to partner States outside of the OSCE area. An OSCE without Russia may be able to reform the more practical aspects of its work in the Mediterranean dimension. However, it is unclear at this time whether other states would block consensus on this. Furthermore, such reform would of course depend on both the confirmed interest of Mediterranean Partners and ultimately the availability of voluntary funding. Russia's departure from the Organization would not have a direct impact on the availability of voluntary funds for the activities with Mediterranean Partners, as it has not been contributing to those. However, it is unclear whether additional voluntary funds would be made available by other countries. Adding some costs related to the Mediterranean dialogue activities into the regular OSCE budget would be preferable to using voluntary funds. However, this option may be complicated by the fact that the departure of Russia and/or any other state would result in a budgetary shortfall for the Organization.

While Russia's exit or exclusion could possibly open up the possibility for more constructive relations within the Organization and thus potentially allow for more practical activities in the Mediterranean dialogue, these would probably still be limited in scope. At the same time, an OSCE without Russia may increase the pressure on North African states to make geostrategic choices between 'the West' and Russia.

- Demise of the OSCE

The final question is what would be the implications for participating States and Mediterranean Partner states should the OSCE, and therefore also the Mediterranean dialogue, cease to exist, in whichever way. Arguably, in this case as well, there would be no palpable immediate impact on the participating States and Mediterranean Partners. It is worth mentioning, however, that it would deprive the Mediterranean Partner States of a relevant platform for interaction, dialogue, and practical co-operation with a broad group of countries, based on decades of efforts. It can be assumed that some of these functions would be continued or emphasized in other formal and informal frameworks and organizations, such as the UN, the EU European Neighbourhood Policy (ENP) and EU co-operation with the League of Arab States and African Union, even though many of these do not include Eastern European countries.

However, the demise of the OSCE would mean the loss of a norm-diffusion framework, applicable for North Africa, as well as a 'socializing' function of the practical interaction aspects. It would also imply a failure of the co-operative security approach modelled by the OSCE, which arguably would affect the chances of any such approach being applied in the Mediterranean, a region that currently has plenty of security challenges but no effective security governance, and which is severely affected by Russia's war against Ukraine.

Conclusion

Russia's war against Ukraine underlines the relevance of the Helsinki Final Act's assertion that security in Europe is closely linked with security in the Mediterranean area and, significantly, this is clearly a two-way street. Not only are North African countries among the most exposed to the economic, social, and political consequences of the war, but their exposure can have severe implications for European states. In this situation, the OSCE experiences a further deterioration of relations within the Organization, which could have an impact on its Mediterranean dialogue with six North African states. This paper's scenarios for the future of the OSCE, the consequences for the Mediterranean dialogue, and the situation of participating States and Mediterranean Partners, indicate that none of the scenarios would result in an immediate deterioration of the situation in the Mediterranean region. One scenario could have the potential of somewhat improving the Mediterranean dialogue — and that is "OSCE without Russia", although that improvement would not be too substantial.

The scenarios also indicate that there is danger of damaging or losing a platform for interaction and a norm-diffusion framework at a time when the North African countries face a potentially severe crisis, caused by events that take place entirely within the OSCE area, which in turn could have a direct impact on participating States.

CAN AND SHOULD THE OSCE SURVIVE?

Wolfgang Zellner[30]

The Russian aggression against Ukraine represents the complete negation of everything for which the OSCE stands: a rules-based order, co-operative security policy, respect for the sovereignty of states and the inviolability of their borders. This raises the question as to whether the OSCE can survive in a political environment that diametrically contradicts its very *raison d'être*. A large majority of OSCE participating States answered the Russian aggression by stopping any co-operation with the Russian Federation and by supporting Ukraine in the broadest terms.

Many participating States are asking themselves whether stopping co-operation with Russia should include stopping joint decision-making in the OSCE. However, a stop in OSCE decision-making would almost inevitably lead to the termination of the Organization. Finding a proper answer to this crucial question requires an assessment of the broader political development.

The OSCE as a Reserve Option for Future Co-operative Action

At the time of writing, mid-May 2022, there is no indication that the war in Ukraine will stop soon. Both sides are striving for some kind of victory that they have not yet reached. The Ukrainian side is striving at throwing out all Russian forces from its territory, possibly including Crimea. The Russian side may aim to consolidate its territorial gains in the Donbas and achieve a land bridge to Transdniestria. As neither side seems to be strong enough to achieve a clear "victory", fighting might continue for months or even years.

At some point, however, the sides will conclude that their means to achieve their war aims are exhausted and will start negotiations on a ceasefire. This is, by its very nature, a co-operative act by the two combatant nations. Other states and international organizations, including the OSCE, can assist in implementing a ceasefire agreement by providing monitoring, humanitarian assistance and third-party mediation. This is also a kind of co-operative behaviour. To be able to do so, the OSCE must be able to take decisions or, more fundamentally, it must still exist.

Unfortunately, one has to expect that any kind of ceasefire agreement will be highly volatile, and that it is perceived by the sides to be an interruption of the war until one has recovered to resume fighting. This would result in a longer period of high instability where new rounds of fighting and volatile ceasefires mutually replace each other. A final, stable peace agreement, which is honestly supported by both sides, might well require a regime change in the Russian Federation. Nobody knows when this will happen and whether it will happen at all.

This means that we have to expect a protracted period of extreme instability that could last a decade or longer. It is not advisable to follow a strategy of pure denial of co-operation vis-à-vis Russia over such a long period. There will always be problems that require some kind of co-operation, even among enemies. At the strategic level, this includes nuclear arms control and non-proliferation as well as addressing global threats and challenges from climate change to pandemics. At the European level, it may concern conflict regulation including ceasefire monitoring, humanitarian issues, and global challenges as well. Thus, the dichotomy of conflict *or* co-operation is too short-sided. Rather, we have entered a period where states rival, fight and co-operate at different levels at the same time with all the contradictions and difficulties this might entail. This requires some change in our mental maps. Maintaining some elements of co-operation even during wars is essential if the chaos that is currently dominant should not slip out of any control.

One of the few platforms available for this kind of limited co-operation in Europe is the OSCE. And there are not too many alternatives, as the EU and NATO, from a Russian point of view, are involved in the war on Ukraine's side. Therefore, it is advisable to maintain the Organization, even in a restricted form, as a standby option for co-operative action in Europe.

Consensus Minus One — An OSCE without Russia

The very existence of the OSCE is built on consensus rule. The only exception from this rule, the so-called "consensus minus one", was formulated in the conclusions of the 1992 Prague Meeting of the Council (of Ministers):

> The Council decided, in order to develop further the CSCE's capability to safeguard human rights, democracy and the rule of law through peaceful means, that appropriate action may be taken by the Council or the Committee of Senior Officials, if necessary in the absence of the consent of the State concerned, in cases of clear, gross, and uncorrected violations of relevant CSCE commitments.

This stipulation has been used only once, on July 8 1992, when the 13th meeting of the Committee of Senior Officials suspended Serbia from participating in the 1992 Helsinki Summit. This suspension was only lifted on November 7 2000 when the former Republic of Yugoslavia re-joined the OSCE. Could the OSCE apply the same approach to Russia now?

Regarding substance, a suspension of the Russian Federation would be justified. The Russian aggression against Ukraine clearly represents a case "of clear, gross, and uncorrected violations" of OSCE commitments. From a political point of view, however, the case looks different. It is doubtful whether a consensus minus one suspension decision against Russia could be reached, because this would require the collaboration of Belarus and the other members of the Russian-led Collective Security Treaty Organization (Armenia, Kazakhstan, Kyrgyzstan, Tajikistan), what is doubtful. It is also doubtful whether the OSCE would survive a suspension of Russia, or whether this would be followed by a process of decay of the Organization.

Whether we like it or not, Russia is not Serbia. If Western states have chosen to maintain the OSCE, they should give up the idea of suspending Russia by using the consensus minus one rule.

Budget, Chair and Secretary General — Defining the Functional Minimum of the OSCE

Today, with its Secretariat, institutions and field operations, the OSCE is a fully-fledged medium-sized international organization, even if it is not subject to international law. Over the past three decades, efforts concentrated on the issue of how the OSCE could become a full-fledged legal international organization. Now, under the impact of the Russian aggression against Ukraine, we must ask what the minimal functional requirements are for maintaining the OSCE as an organization. In my view, the OSCE must maintain three elements to further qualify as an organization: a Chairperson-in-Office, a Secretary General, and a budget.

To start with the Chair. The Chair provides political guidance and organizes the process of interaction among the participating States. This is a *sine qua non* condition for the further existence of the Organization, particularly under the current extremely difficult conditions. In 2023, Northern Macedonia will hold the Chairmanship. The next Chair will have to be decided upon at the latest at the 2022 Ministerial Council meeting — otherwise there would be no Troika in 2023. If there is no decision on the next Chair by the end of 2023, the OSCE would be lacking a Chairperson in 2024. That would raise the question of whether the Organization still exists.

The same is true, with some restrictions, for the Secretary General. The current incumbent, Helga Maria Schmid, entered office in December 2020, thus the decision on her second term of office should be taken by December 2023. If this does not happen? The OSCE has experienced periods of several months without a Secretary General and without the heads of institutions. However, it is questionable whether such a situation could be upheld over a longer period.

Regarding the budget, the OSCE has already been accustomed to the idea that a decision on the budget is only taken in the middle of the current budget year. In the meantime, the Organization lives on a provisional budget based on last year's budget. However, what happens if no budget decision is taken at all during the budget year? Is it then still possible to work on a provisional budget? One thing is clear: sooner or later, the Organization needs a decision on its budget. Otherwise, its operational activities come to an end.

Is an OSCE without its institutions and field operations thinkable? Yes, although this would represent a harsh blow to the Organization. The decisive point is whether the OSCE will remain operational and remain in a position to re-establish its institutions and field operations under better conditions.

Decisions Need Consensus

All kinds of decisions in the OSCE need consensus. However, consensus in the OSCE is not defined by jointly saying "yes" on a decision, but rather by the absence of objections. If there are objections against a decision, they must be notified to the Chair. If there are no objections, there is no need for any notification. Perhaps this negative construction of consensus, which avoids the necessity of positively agreeing, makes it easier for some states to continue to participate in OSCE decision-making.