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Yearbook on the Organization for Security and
Co-operation in Europe (OSCE)



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Foreword by the Chairperson-in-Office

“Renewing dialogue, rebuilding trust, restoring security” – this was the motto under which Germany – in the midst of a serious crisis – assumed responsibility for security and co-operation in Europe in 2016. We took the helm of the Organization for Security and Co-operation in Europe (OSCE) in turbulent times and faced many challenges during our Chairmanship. Two years after the annexation of Crimea by the Russian Federation, in breach of international law, the ongoing conflict in the east of Ukraine remains one of the greatest challenges for the European security architecture. Meanwhile, the resurgence of violence in Nagorno-Karabakh in April 2016 showed that the unresolved conflicts in the OSCE area always remain capable of escalating. The brutal attacks in Nice, Paris, and Brussels; Ankara and Istanbul; Würzburg, Ansbach, and Berlin; and elsewhere reminded us painfully that, today, our security is subject to many threats that do not stop at the frontiers of the participating States.

These challenges call for the OSCE to act, and the Organization remains indispensable. This is true with regard to crisis and conflict management, but even more so in respect of the OSCE’s role as one of the last remaining platforms for dialogue and co-operation in times of deepening mistrust, widening political divides, and growing unpredictability and risk of escalation in international relations. Like no other institution, the OSCE stands for a peace order on a foundation of shared values, fundamental freedoms, and human rights. And thanks to the consensus principle, it offers – irrespective of differences in social organization, culture, languages, and yes, even opinions – a forum for dialogue between East and West, North and South. Not despite but precisely because of the current crises and conflicts, the OSCE, its co-operative approach to security and co-operation, and its comprehensive understanding of security in three baskets (politico-military, economic and environmental, human rights and fundamental freedoms) are more crucial now than ever.

In short: We need the OSCE today – an OSCE that has awakened from the virtual hibernation of recent years to set a powerful agenda for the future. Together with my Austrian and Italian colleagues, Sebastian Kurz and Paolo Gentiloni, I have, for precisely these reasons, committed myself to taking a stand for continuity in times of crisis and conflict and avowing the key role of the OSCE in the fraught arena of security and co-operation in Europe. With our agenda for the future “A strong OSCE for a secure Europe”, we seek to continue to pursue and support this goal together with Austria and Italy. To achieve this, we need to arm the OSCE for the tasks and challenges that lie

ahead. As members of the future OSCE Troika, therefore, we have defined five areas for action:

First, new forms of dialogue: The OSCE has proven that it is a reliable partner for dialogue even across sharp dividing lines. High-level encounters such as informal meetings of foreign ministers (such as took place in Potsdam in 2016), and ad hoc discussions (as were held on the margins of the 2016 session of the United Nations General Assembly) provide a solid basis for intensifying political dialogue. In the future, parliamentarians, young people, and representatives of civil society, academia, and the business community should be involved more closely in these debates to raise the OSCE's potential to act as a mediator and bridge-builder. We are absolutely convinced that, if we want to keep political communication channels in Europe open in difficult times, the Organization has to play a central role at the heart of multilateral diplomacy in Europe again.

Second, sustainable conflict resolution: Numerous crises and conflicts are currently rocking our European security architecture. As the world's largest regional security organization, the core task of the OSCE is to prevent the outbreak of violent conflict and to find sustainable solutions to existing conflicts in the OSCE area.

However, the conflict in and around Ukraine has also shown us that the OSCE needs to adapt itself to new challenges that arise from complex multi-dimensional conflict situations. To that purpose, we should continue to develop our instruments along the entire conflict cycle to ensure that we are capable of taking action at any time: whether in conflict prevention, mediation, monitoring, or post-conflict rehabilitation.

Third, greater security for all: Confidence-building measures and arms control play a central role in creating transparency, minimizing risks, and restoring security in Europe. In the light of recent military and technological advances, we are committed to the modernization of the Vienna Document and the revival of conventional arms control in Europe. I have already received a great deal of encouragement from OSCE participating States for my initiative to revive arms control. It is particularly satisfying that the go-ahead was given in Hamburg for a structured dialogue on current and future challenges and security risks in the OSCE area.

Fourth, overcoming global challenges together: Today, our states and societies are confronted with an unprecedented range of global challenges that no country can tackle alone. The OSCE can make a vital contribution to finding common responses to challenges such as terrorism, extremism, cyber-attacks, and the consequences of mass movements of refugees and migrants – frequently working closely with its Mediterranean Partners for Co-operation. Closer co-operation on economic and environmental issues can also help to build confidence – the Connectivity Conference in Berlin in May gave this a key initial boost.

We will seek to continue these efforts in all dimensions of our security in the future, since it is clear that we can only overcome common challenges by working together. Democracy and human rights will remain the foundation of our co-operation.

Fifth, an OSCE that is capable of acting: The OSCE is only as strong as its participating States allow it to be. We call upon all OSCE States to live up to their responsibility and to give the OSCE the political and financial support it requires to perform its tasks – that includes the Secretariat in Vienna, the Organization's field missions, and the OSCE's autonomous institutions.

The Ministerial Council in Hamburg showed that, even in turbulent times and despite many differences of opinion, we, the OSCE participating States, are still capable of achieving compromises on specific issues and preventing the vital dialogue on peace and security in Europe from stalling. On many other points, however, for instance, with regard to the conflict in and around Ukraine, or new challenges in the human dimension, it is clear that the OSCE family proved incapable of finding a common language, let alone consensus on matters of substance. Further important issues, including the long-term development of the Organization's capacities for civil crisis management and conflict prevention, also remain unresolved. Yet this should not dishearten us. It is precisely because the times are turbulent and consensus is so hard to achieve that we should invest in upholding political dialogue. Only by doing so will we restore the confidence that has declined and rebuild lasting comprehensive security and stability in the OSCE area.

During our OSCE Chairmanship in 2016, we devoted ourselves heart and soul to this goal, and we will continue to do this in co-operation with Austria, which holds the Chairmanship in 2017, and with Italy thereafter. Germany's Chairmanship in 2016 also taught me that the work and the commitment to peace and security in Europe fall on many shoulders – particularly in times of crisis and conflict. My review would be incomplete without a word of thanks to my many colleagues, supporters, and fellow travellers, both in Germany and throughout the OSCE family. My gratitude therefore goes out to everyone who supported the German Chairmanship with their counsel, co-operation, and assistance.

Preface

In 2016, the state of European security remains precarious, and talk of a common, pan-European security order seems to belong to a bygone age: A political resolution to the crisis in and around Ukraine appears a distant prospect, with the ceasefire regulated by the Minsk Agreements and observed by the OSCE Special Monitoring Mission (SMM) looking fragile. Russia and the West are deeply divided – not only by the crisis – and the contradictions seem insurmountable. In early April, fierce fighting broke out between Armenian and Azerbaijani soldiers at the line of contact separating the sides in the Nagorno-Karabakh conflict; more than 100 people died in the clashes, including civilians. After four days, under Russian mediation, the conflict parties agreed a truce on 5 April, yet despite the cessation of fighting, the conflict could flare up again at any time – particularly given the arms build-up on both sides. But armed conflicts are only one side of the story: The dramatic increase since 2015 in particular in the number of people seeking refuge in Europe – from wars and civil wars, persecution, and violence creates enormous challenges for the continent. The refugee crisis – and the connection is undeniable – has coincided with a growing receptivity among sections of the populations of Western and Eastern Europe towards populist and extremist right-wing political positions and the parties that stand for them, which are finding increasingly alarming expression in enmity and hatred towards refugees and migrants – particularly those whose cultures are deemed to be “alien”. In many European countries, this very same populism is also being directed at the established parties, the “ruling elites”, the media, and national governments – and their international counterpart – the European Union. The most prominent example of this was the decision of the United Kingdom, passed in a referendum on Britain’s continued membership of the European Union by 51.9 per cent of participating voters, against the expectations of observers, to leave the EU. “Brexit”, as it has become known, has since come to serve potential imitators as an example to follow. Donald Trump’s equally unexpected victory in the US presidential election confirms the existence of a trend – not only in Europe, but in the OSCE area as a whole.

In these “turbulent times”¹ – a metaphor for the European security situation that was to be wielded with increasing frequency – Germany assumed

1 “Germany is assuming the Chairmanship of the Organization for Security and Co-operation in Europe in turbulent times.” Foreign Minister Frank-Walter Steinmeier, in: The Federal Government, OSCE Deutschland 2016, *Renewing dialogue, rebuilding trust, restoring security. The priorities of the German OSCE Chairmanship in 2016*, p. 1, at: http://www.wien-osze.diplo.de/contentblob/4716588/Daten/6230595/160126_Broschre_OSZE_ENG.pdf; cf. also Christian Nünlist, *Building Trust in a Turbulent Year: Ger-*

the OSCE Chairmanship in 2016, laying out its six priorities for the year under the motto “Renewing dialogue, rebuilding trust, restoring security”:² 1. crisis and conflict management; this largely focused on the conflict in and around Ukraine, but also the unresolved protracted conflicts in the OSCE area; 2. strengthening the OSCE’s capacities over the entire conflict cycle, i.e. in early-warning and conflict prevention, crisis management, and post-conflict rehabilitation; 3. using the OSCE as a platform for dialogue, which was not only aimed at continuing dialogue on questions of pan-European security and addressing common threats, but above all at restoring talks on confidence- and security-building measures (CSBMs) and conventional arms control as core elements of the politico-military dimension, central components of military security, and key topics within the CSCE process and the OSCE – a project that the Chairperson-in-Office Frank-Walter Steinmeier made his top priority in August 2016 with his initiative seeking the “re-launch of arms control in Europe as a tried and tested means of risk-reduction, transparency and confidence-building”;³ 4. promoting sustainable connectivity and good governance in the OSCE area, which sought to revive the OSCE’s economic and environmental dimension by stimulating economic exchange; 5. focusing on the human dimension, stressing issues such as promoting civil society involvement, the role of the media and journalists in times of crisis, and combating anti-Semitism; and 6. strengthening transnational exchange between societies by means including working closely with academic institutions and directly encouraging youth participation.

So, as a turbulent year comes to an end, how was Germany’s Chairmanship performance? Given the gulf between Russia and the West, modest expectations were certainly appropriate. One of the least satisfactory outcomes of the Ministerial Council Meeting held in Hamburg on 8 and 9 December 2016 was certainly the failure to reach a single agreement or adopt a single decision in the human dimension.⁴ Nor did the OSCE foreign ministers succeed in formulating a common statement on the Ukraine crisis, which simultaneously reflects the general failure to achieve the hoped-for success in the area of conflict management in Ukraine; in the end, the “Conclusions of the

many’s 2016 OSCE Chairmanship, in: *Security and Human Rights*, Netherlands Helsinki Committee, 22 December 2016, at: http://www.shrblog.org/shr_monitor/Building_Trust_in_a_Turbulent_Year_Germany_s_2016_OSCE_Chairmanship.html?id=645.

2 For full details, see: The Federal Government, cited above (Note 1).

3 Frank-Walter Steinmeier, *More security for everyone in Europe: A call for a re-launch of arms control*, originally published in German as: Mit Rüstungskontrolle Vertrauen schaffen [Creating Confidence with Arms Control], in: *Frankfurter Allgemeine Zeitung*, 26 August 2016, p. 1, available at: <http://www.osce.org/cio/261146>.

4 As Christian Nünlist points out: “None of the eight prepared decisions in the human dimension reached consensus. 42 states thus decided to separately publish a joint statement on ‘Human Rights and Fundamental Freedoms’, thereby making public the 15 states, including Russia, which did not support the statement.” This not only shows fundamental differences of opinion remaining evident throughout the conference, but also confirms his impression that some of the plenary statements were “reminiscent of Cold War tensions”, Nünlist, cited Above (Note 1).

Chairperson-in-Office”, stated merely that the “ministers deplored the violation of international law and common principles and commitments in relations between OSCE participating States” and, explicitly with regard to the crisis in and around Ukraine, “called upon all sides to meet their commitments swiftly and comprehensively”.⁵ Furthermore, as the publication of a set of Chairperson’s conclusions indicates, the foreign ministers were again unable to agree on a joint political declaration this year; the last time they succeeded in doing so was at the Porto Ministerial Meeting in 2002.

Another issue of concern is the inability of the participating States to achieve consensus on the succession of various key institutions and offices: In the case of the OSCE Representative on Freedom of the Media, it only proved possible to agree on an exceptional and limited extension of the mandate to 10 March 2017, while no decision was reached at all on the succession of the High Commissioner on National Minorities (HCNM). Several additional important decisions are pending in 2017: the election of a new OSCE Secretary-General, and of the next Director of the Office for Democratic Institutions and Human Rights (ODIHR). If no agreement can be reached on these, indispensable OSCE institutions will be paralysed or at least severely limited in their functioning.

Measured against these difficult background conditions, the overall performance of the German OSCE Chairmanship can nonetheless be considered positive. Rather unexpectedly, alongside four technical decisions, eight substantive declarations and decisions were also adopted on issues highlighted by the Chairmanship:⁶ a declaration on strengthening OSCE efforts to prevent and counter terrorism; a ministerial statement on the negotiations on the Transdniestrian settlement process in the 5+2 format; and a ministerial declaration on OSCE assistance projects in the field of small arms and light weapons. However, while the declaration on the 20th anniversary of the OSCE Framework for Arms Control, “From Lisbon to Hamburg”, is undoubtedly important, it should not lull us into a false sense of security: Urgent and tangible progress is needed if this issue is not to sink into obscurity again.

Substantive decisions adopted at the 23rd Ministerial Council cover topics including reducing the risks of conflict stemming from the use of information and communication technologies; enhancing the use of advance passenger information; strengthening good governance and promoting connectivity; and – last, but by no means least – the OSCE’s role in the governance of large movements of migrants and refugees.

5 23rd OSCE Ministerial Council (Hamburg, 9 December 2016): *Conclusions of the Chairperson-in-Office*, Hamburg, 9 December 2016, at: [http://www.auswaertiges-amt.de/ EN/ Infoservice/Presse/Meldungen/2016/161209-OSZE-AM_Rat_Schlussfolgerungen_Vorsitz.html](http://www.auswaertiges-amt.de/EN/Infoservice/Presse/Meldungen/2016/161209-OSZE-AM_Rat_Schlussfolgerungen_Vorsitz.html).

6 The final decisions and declarations of the 23rd Ministerial Council can be found at: <http://www.osce.org/cio/300326>.

“Refugees and migration in the OSCE area” and the OSCE’s role in dealing with this phenomenon are also the special focus of this year’s OSCE Yearbook. Some figures, though rather dry in themselves, can perhaps help to indicate the drama of this crisis: At the end of 2015, the total number of forcibly displaced people worldwide – those fleeing war, violence, and persecution – was 65.3 million, which is higher than at any time since the end of the Second World War⁷ (for comparison: the figure was 59.5 million at the end of 2014; 51.2 million a year before that; and 37.5 million ten years ago).⁸ Of the 21.3 million refugees under UN mandate, 53 per cent originated in just three countries: Syria (4.9 million), Afghanistan (2.7 million), and Somalia (1.12 million). The vast majority of the world’s refugees under UNHCR mandate – 86 per cent – are hosted in developing regions (2015).⁹ The countries hosting the largest refugee populations in 2015 were Turkey (2.5 million), Pakistan (1.6 million), Lebanon (1.1 million), Iran (979,400), Ethiopia (736,100), and Jordan (664,100);¹⁰ in relation to its population, Lebanon hosted the largest number of refugees.¹¹

A far smaller portion – though still more than a million individuals (in 2014 it was ca. 219,000) – attempted to cross the Mediterranean to reach Europe – mostly Greece and Italy – via one of the most dangerous routes for refugees and migrants in the world; four thousand of them are missing, presumed drowned.¹² According to the International Organization for Migration (IOM), more than 2,400 people drowned in the first five months of 2016, compared to 1,800 in the same period in 2014.¹³

Migration rose sharply up the OSCE’s agenda in 2016 as a consequence of the recent spike in refugee and migrant numbers, which led participating States to understand that managing flows of refugees and migrants will be a key security challenge for Europe for years to come. We have responded by making the topic a focus of the OSCE Yearbook 2016, in the section on

7 Cf. UNHCR, *Figures at a Glance, Global Trends 2015*, at: <http://www.unhcr.org/figures-at-a-glance.html>; UNHCR, *Global Trends, Forced Displacement in 2015*, at: <https://s3.amazonaws.com/unhcrsharedmedia/2016/2016-06-20-global-trends/2016-06-14-Global-Trends-2015.pdf>.

8 Cf. UNHCR, *Global Trends, Forced Displacement in 2014*, p. 2, at: <http://www.unhcr.org/statistics/country/556725e69/unhcr-global-trends-2014.html>; UNHCR, *Worldwide displacement hits all-time high as war and persecution increase*, 18 June 2015, at: <http://www.unhcr.org/news/latest/2015/6/558193896/worldwide-displacement-hits-all-time-high-war-persecution-increase.html>.

9 Cf., UNHCR, *Global Trends, Forced Displacement in 2015*, cited above (Note 7), p. 2.

10 Cf. UNHCR, *Figures at a Glance*, cited above (Note 7).

11 Cf., UNHCR, *Global Trends, Forced Displacement in 2015*, cited above (Note 7), p. 2.

12 Cf. Jonathan Clayton/Hereward Holland, *Over one million sea arrivals reach Europe in 2015*, UNHCR, 30 December 2015, at: <http://www.unhcr.org/news/latest/2015/12/5683d0b56/million-sea-arrivals-reach-europe-2015.html>. In addition to the sea crossings, recent figures also estimated that a further 34,000 have crossed from Turkey into Bulgaria and Greece by land; cf. *ibid.* For 2014, cf. UNHCR, *Global Trends, Forced Displacement in 2014*, cited above (Note 8), p. 5.

13 Cf., International Organization for Migration, *Mediterranean Migrant Arrivals in 2016: 204,311; Deaths: 2,443*, at: <http://www.iom.int/news/mediterranean-migrant-arrivals-2016-204311-deaths-2443>.

“Comprehensive Security: The Three Dimensions and Cross-Dimensional Challenges”.

Svenja Gertheiss and Sabine Mannitz begin by clarifying terminology and concepts relating to refugees and migrants before discussing their legal rights and status in international law and applicable rules and regulations as a precondition for politically responsible action; they conclude with a call for a new approach to the treatment of migrants and refugees. In their contributions, David Buerstedde from the OSCE Secretariat and Jean P. Froehly from ODIHR deal with the OSCE’s response to the refugee crisis, examining how the OSCE *acquis* covers migration and discussing where the Organization possesses expertise that could help to address short-, medium-, and long-term challenges related to migration. Stephanie Liechtenstein considers what else the Organization needs to do to contribute to managing the current crisis, while Florent Marciacq, Tobias Flessenkemper, and Ivana Boštjančič Pulko examine how the migration crisis has influenced the work of the OSCE field operations deployed in South-eastern Europe from the opening of the “Balkan route” in late summer 2015 to its closure in March 2016. Finally, Maria Chepurina presents the work of the OSCE Parliamentary Assembly in relation to the migrant and refugee crisis.

Elsewhere in this section, Kurt P. Tudyka reviews the evolution of the OSCE’s “second basket” – environmental and economic activities.

In the chapter on “The OSCE, European Security, and the Ukraine Crisis”, Marcel Peško, Director of the OSCE Conflict Prevention Centre, looks at the Organization’s ongoing conflict management role in Ukraine and discusses new solutions for the existing challenges. Against the backdrop of Germany’s 2016 OSCE Chairmanship, Wolfgang Zellner asks what the OSCE’s long-term aims should be. Patricia Flor, Federal Commissioner for Arms Control, Disarmament and Non-Proliferation at the German Foreign Office, and Wolfgang Richter from the German Institute for International and Security Affairs discuss various aspects of modernizing confidence- and security-building measures, and highlight Foreign Minister Steinmeier’s initiative to revive conventional arms control in Europe. Finally, P. Terrence Hopmann poses the fundamental question: “What Happened to Co-operative Security?”

Two contributions in the section on the interests and commitment of specific OSCE States focus on the United Kingdom. The Head of the UK delegation to the OSCE, Sian MacLeod, discusses how the UK attitude to the Organization may be affected by the Ukraine crisis, while Reem Ahmed focuses on the UK referendum on membership of the European Union.

Turning to the OSCE’s tasks and responsibilities in conflict prevention and dispute settlement, Hans-Joachim Schmidt addresses the four-day war between Armenia and Azerbaijan in April 2016 and its impact on the chances of peace in Nagorno-Karabakh, while Vaidotas Verba, the OSCE Project Coordinator in Ukraine, discusses the work of his office. Nico Schernbeck pre-

sents an in-depth analysis of current challenges and future opportunities in OSCE crisis and conflict prevention, and Larissa Daria Meier examines the history of the OSCE's involvement in peacekeeping and discusses its potential for further development. Finally, in their detailed account, Geoffrey Corry, Pat Hynes, and Kieran Doyle ask what lessons can be learned from the Northern Ireland peace process for the resolution of current protracted conflicts.

Last but not least, in the section on internal and external relations, Loïc Simonet and Hans Georg Lüder return to the perennial battle over the OSCE's legal status, and Anastasiya Bayok discusses the Chinese view of Central Asia.

We are particularly grateful to Germany's foreign minister, Frank-Walter Steinmeier, the OSCE Chairperson-in-Office in 2016, for this year's foreword.

We would like to express our thanks to all our authors, whose contributions reflect a depth of personal experience and dedication that make it possible for the OSCE Yearbook to exist and lend it its unique character

In his closing speech at the OSCE Ministerial Council in Hamburg, Foreign Minister Steinmeier stated that, 25 years after the end of the Cold War, the OSCE is at a crossroads. Nonetheless, he makes clear that even – and precisely – in these “turbulent times”, the vision of a co-operative security order based on shared principles and rules, though threatened, remains indispensable.¹⁴ With the aim of boosting efforts to ensure that the OSCE remains a key forum for strengthening security in Europe via dialogue, co-operation, and effective multilateralism, Foreign Minister Steinmeier, together with his counterparts from Austria and Italy, Sebastian Kurz and Paolo Gentiloni, presented the “Hamburg Declaration of the incoming OSCE Troika: A Strong OSCE for a Secure Europe”,¹⁵ in which they outline an agenda for the future efforts of the Organization: expanding channels of communication, investing in sustainable conflict prevention, reviving confidence- and security-building measures and conventional arms control in Europe, setting a common agenda, and enabling the OSCE to deliver results.

14 Cf. *Closing speech of Federal Minister for Foreign Affairs at the OSCE Ministerial Council*, 9 December 2016, at: http://www.auswaertiges-amt.de/EN/Infoservice/Presse/Reden/2016/161209_OSZE_Schluss.html.

15 OSCE incoming Troika 2017 (Germany/Austria/Italy), *Hamburg Declaration of the incoming OSCE Troika: A Strong OSCE for a Secure Europe*, MC.GAL/11/16, 9 December 2016, at: <http://www.osce.org/cio/287946>.

I.

States of Affairs – Affairs of State

The OSCE and European Security

The OSCE's Engagement in Response to the Crisis in Ukraine: Meeting New Challenges with New Solutions

In March 2014, the OSCE responded to the evolving crisis in and around Ukraine with the rapid deployment of a Special Monitoring Mission (SMM). The Organization's quick reaction to an increasingly tense security situation, particularly in eastern Ukraine, met the international demand for impartial monitoring and fact-based reporting. Literally overnight, the SMM became the international community's most important tool with regard to gathering information, facilitating dialogue, contributing to the reduction of tensions, monitoring and supporting respect for human rights and fundamental freedoms, and facilitating efforts aimed at a peaceful resolution of the conflict in the east of Ukraine.

Since then, the OSCE has spared no effort to fulfil its role as the world's largest regional security organization in contributing to peaceful conflict resolution in Ukraine. Despite unprecedented challenges with regard to safety and security, specifically in the wake of the dramatic increase in violence in the Donbas over the summer of 2014, which resulted in an ongoing and prolonged military conflict, the SMM has managed to adapt to a fluid situation and deliver results in accordance with its mandate. The Mission has now become the largest OSCE field operation in more than a decade. Due to challenges on the ground, it is applying new technologies of a kind never before employed within the OSCE, including unmanned aerial vehicles (UAVs) and camera-based surveillance systems. While this has provided the SMM with the means to overcome some operational constraints, the Mission has been on a steep learning curve since its inception. It has had to employ a range of bespoke tools and remain flexible, and this is not likely to change in the near- to mid-term future. Consequently, the OSCE's continuing engagement with regard to Ukraine holds many lessons to be learned for the whole Organization, and in particular for its overall crisis-response capacities.

The Special Monitoring Mission to Ukraine – A Brief Introduction

Following a request from the host country, and in response to the deteriorating security situation, the SMM was established by a decision taken on 21 March 2014 by the OSCE Permanent Council (PC), the Organization's prin-

Note: With input from the OSCE Conflict Prevention Centre and the OSCE Special Monitoring Mission to Ukraine.

cial decision-making body.¹ The initial deployment foresaw 100 civilian monitors to be located across Ukraine in ten monitoring locations.

Operating according to the principles of impartiality and transparency, the SMM has been mandated to gather information and report on the security situation. Its job is to establish and report the facts, especially regarding specific incidents, as well as any restrictions on its own freedom of movement. It also monitors and supports respect for human rights and fundamental freedoms and establishes contact with local, regional, and national authorities, civil society, ethnic and religious groups, and members of the local population. One particular aspect is its mandate to facilitate dialogue on the ground to reduce tensions and promote the normalization of the situation. With the ultimate goal of contributing to a reduction in tensions and fostering peace, stability, and security, the SMM acts as the “eyes and ears” on the ground not only of the OSCE itself but, as the only large-scale international presence operating in the Donbas, of the wider international community as well.

Compared to today’s security environment, the situation in the area of operation at the time of initial deployment in March 2014 was relatively benign. The mood in the country was tense, with some regions – mainly in the east – experiencing protests and demonstrations, but there was little violence. While the Mission was still building up its initial strength of 100 monitors, the situation escalated: Armed groups seized government buildings and violence increased. With little time for Mission consolidation, the changing situation on the ground drove the need for a rapid expansion to 500 monitors.

The changing situation meant that OSCE hit the ground running. While the SMM was still expanding, fighting intensified: The use of tanks, heavy artillery, and multiple-launch rocket systems became more frequent. The hostage-taking of monitors by non-government actors between May and July 2014, and the bringing down of Malaysian Airlines flight MH17 were some of the gravest unanticipated challenges the Mission would face. Still in the process of building up its strength, one can liken the SMM’s early days to trying to construct a boat on the open sea while sailing full speed under treacherous winds.

The initial deployment of the SMM took place within 24 hours of the PC Decision. This huge achievement for the OSCE was made possible by the work done since 2011 to strengthen the OSCE’s rapid-response capacities following the adoption of Ministerial Council (MC) Decision No. 3/11 on “Elements of the Conflict Cycle”. This rapid deployment was made possible by transferring staff and mission members from other OSCE field operations and executive structures as so called “first responders” and by a “virtual pool of equipment” – an electronic inventory of critical assets. Already on the

1 Cf. Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 1117, Deployment of an OSCE Special Monitoring Mission to Ukraine*, PC.DEC/1117, 21 March 2014, at: <http://www.osce.org/pc/116747>.

ground, the Office of the Project Co-ordinator in Ukraine provided key support.

The provision of both initial and long-term support for the SMM has been an enormous challenge for the Organization. When one considers that the SMM is now roughly one third of the size of the entire OSCE, with some 1,300 mission members and a budget of almost 99 million euros compared to the rest of the Organization's approximate 2,300 staff in other field operations and institutions with a budget of 141 million euros, the strain on an already over-stretched Secretariat in terms of human resources, equipment, and service support becomes obvious. Moreover, as the Mission's activities transformed from observing a tense security situation to monitoring an open and violent conflict in the east of Ukraine, the challenges to both the Mission and the OSCE developed to a level that is without precedent in the history of OSCE field operations.

In spite of these challenges, the SMM has managed to adapt to the new security environment in the east and to fulfil the role it was initially established to perform. In particular, these activities have had a direct impact on affected populations, with whom the SMM's monitors remain in frequent contact. Complementing the efforts to promote dialogue of the OSCE Project Co-ordinator in Ukraine,² the SMM has initiated dialogue throughout the country: between religious groups, between internally displaced persons and host communities, and between local populations and local authorities. The Mission has produced thematic reports on issues of concern for people on the ground, such as access to water, displacement, gender, the humanitarian situation of the population, access to justice, protection of civilians and their freedom of movement, and civil society dynamics in relation to the crisis, among many others.³ With regard to the violent conflict in eastern Ukraine in particular, the SMM has facilitated localized ceasefires, enabling vital repair of civilian infrastructure such as water, gas and, electricity lines, as well as the transport of water-pumping equipment across the line of contact. The Mission has assisted in ensuring access for the International Committee of the Red Cross (ICRC) to deliver humanitarian aid to towns and villages in the Donetsk region. Facilitation and monitoring of the removal of unexploded ordnance (UXO) have allowed for the delivery of lifesaving medical supplies to conflict-stricken regions of the Donbas.

Not foreseen in its initial mandate, many of the activities now conducted by the SMM stem from the Protocol and Memorandum signed in September 2014 and the Package of Measures for the Implementation of the

2 See the contribution in this volume by Ambassador Vaidotas Verba, OSCE Project Co-ordinator in Ukraine, *Supporting Reform, Dialogue, and Crisis Response in Ukraine*, pp. 125-133.

3 The Thematic Reports of the OSCE Special Monitoring Mission are online available at: <http://www.osce.org/ukraine-smm/156571>.

Minsk Agreements signed in February 2015. These agreements⁴ came about through intense political efforts led by the Normandy Format, which comprises representatives of Germany, France, the Russian Federation and Ukraine, to put an end to the fighting and pave the way for a political solution to the conflict in the Donbas. The enhanced role of the OSCE and the changing operational environment arising from the Minsk negotiations resulted in a decision of the PC⁵ in March 2015 to further expand the SMM up to a maximum strength of 1,000 monitors. While the first OSCE monitors arrived in eastern Ukraine in late March 2014 and faced a situation that was tense but generally peaceful, the tasks of today's monitors include monitoring a fragile ceasefire and the withdrawal of heavy weapons from the zone of conflict – new challenges that are not easily met by a purely civilian monitoring mission. The fact that the SMM was asked to take on new activities arising out of the Minsk agreements, despite its limited experience in the relevant areas indicates just how much trust the international community has in the OSCE's ability to respond and adapt to changing political, security, and operational imperatives.

The Challenges of Implementing the Minsk Agreements

Despite the signing of the Minsk agreements, the lack of concrete progress towards conflict resolution on the political front continues to be a major complicating factor. While the OSCE actively supports all efforts toward a diplomatic solution, the responsibility to reach a settlement rests with the sides. The main forum for discussions on resolving the crisis in and around Ukraine remains the OSCE-led Trilateral Contact Group (TCG), which was created in May 2014 to facilitate a diplomatic resolution to the crisis. It gathers senior representatives of Ukraine and the Russian Federation under the guidance of a Special Representative appointed by the OSCE Chairperson-in-Office. Four working groups were subsequently created within this format to focus the discussions on political, security, humanitarian, and economic issues. These groups regularly bring together working-level representatives of Ukraine and the Russian Federation in the presence of participants from certain areas of Donetsk and Luhansk regions. The SMM's Chief Monitor, Ambassador Ertuğrul Apakan, co-ordinates the security working

4 The "Minsk agreements" shall be understood as the decisions and agreements mentioned in (1) the Protocol on the results of consultations of the Trilateral Contact Group of 5 September 2014, (2) the Memorandum of 19 September 2014 outlining the parameters for the implementation of commitments of the Minsk Protocol, (3) the Package of Measures for the Implementation of the Minsk Agreements agreed by the Trilateral Contact Group at the Summit in Minsk on 12 February 2015, and (4) the Addendum to the Package of Measures, signed on 29 September 2015.

5 Cf. Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 1162, Extension of the Mandate of the OSCE Special Monitoring Mission to Ukraine*, PC.DEC/1162, 12 March 2015, at: www.osce.org/pc/144996.

groups, facilitating discussions and providing expertise derived from monitoring the security situation.

Following the adoption of the Minsk Memorandum, the Russian Federation and Ukraine also established a bilateral initiative, the Joint Centre for Control and Co-ordination (JCCC), comprising members of the Russian and Ukrainian general staffs and other military officers. While the JCCC is essential to guarantee the SMM's security and facilitate access to both sides of the line of contact, the lack of political endorsement of a clear mandate or agreed terms of reference means that it has not been able to facilitate full adherence to the ceasefire along the line of contact. Indeed, Ambassador Apakan informed the PC on 28 July 2016 that implementation by the JCCC of the tasks assigned to it under the Addendum to the Package of Measures was far from consistent, particularly as a result of monitoring and verification impediments and incidents affecting the security of monitors.

Although enormous efforts have been made to bring the sides closer to finding concrete solutions, in particular within the aforementioned TCG working groups, a lack of consensus due to mistrust and frequently diametrically opposed priorities and positions mean that these efforts have not translated into much tangible progress on the ground. Addressing the PC on 28 July 2016, Ambassador Martin Sajdik, the Special Representative of the OSCE Chairperson-in-Office in Ukraine and in the Trilateral Contact Group, concluded that the implementation of the Minsk agreements is dependent on the political will of all sides to live up to their engagements and obligations. "So far, the situation is bleak especially in this regard",⁶ he noted. However, in a positive development, on 20 September 2016 the TCG agreed on a framework decision for the disengagement of forces in three specific areas along the line of contact: Stanytsia Luhanska, Zolote, and Petrivske. While these areas are relatively small, they provide an opportunity to explore disengagement as a modality for reducing tensions.

Despite this, one of the biggest challenges to the security and operations of the SMM remains the continued failure to comply with the terms of the ceasefire and the agreed provisions on weapons withdrawal. In addition, the provisions of the Addendum to the Package of Measures, signed in September 2015, which required the withdrawal of tanks and artillery pieces with a calibre up to 100 mm and mortars with a calibre up to 120 mm (inclusive), have not yet been implemented. In fact, SMM daily reports show that the Addendum is more often violated than respected. In his report to the PC on 28 July 2016, Chief Monitor Apakan informed participating States that compliance with the Minsk agreements remains low in every regard and that ceasefire violations continue at high levels. Moreover, large amounts of

6 Organization for Security and Co-operation in Europe, *Urgent steps needed towards full respect for ceasefire in eastern Ukraine, says OSCE Chairmanship Special Representative and Chief Monitor*, press release, 28 July 2016, at: <http://www.osce.org/cio/256826>.

weapons prohibited under Minsk remain in the security zone, and the number of civilian casualties in June 2016 was the highest recorded in almost a year.⁷

All signatories of the Minsk agreements concur that restrictions to the SMM's freedom of movement constitute a violation. Indeed the ability of the SMM to monitor in an environment of unhindered access and with guarantees of full security for staff and assets is indispensable if the Mission is to fulfil its mandated tasks. However, in the last quarter of 2016 alone, the SMM experienced almost 500 separate freedom-of-movement restrictions, in both government- and non-government-controlled areas.⁸ On a number of occasions, SMM patrols have come under direct small-arms fire or have been in the proximity of exploding artillery rounds. In addition to such threats, SMM monitors have regularly been threatened at gun point and hindered from fulfilling their mandate.

The Protocol of 5 September 2014 calls for the permanent monitoring of the Ukrainian-Russian border. Additionally, it foresees the creation of security zones in the border regions of Ukraine and the Russian Federation and their subsequent verification by the OSCE. The Mission is regularly prevented from carrying out this task on both sides of the line of contact. However, it experiences even greater restrictions in movement when trying to access and monitor the administrative boundary line between Ukraine and Crimea. When access to border areas is granted, it is strictly regulated and only for short periods. Consistent efforts by the SMM to open forward patrol bases (FPB) in border areas have not been successful due to lack of access and the absence of security guarantees.

With regard to border monitoring, another OSCE field operation was specifically mandated to observe the movements and activities at the border after Ukraine lost its control over a stretch of its border with the Russian Federation in June 2014. Following much debate in the OSCE and at the invitation of the Russian Federation, the OSCE Observer Mission at the Russian Checkpoints Gukovo and Donetsk (OM) was deployed pursuant to PC Decision No. 1130 adopted just days earlier. Again, the OSCE showed its ability to swiftly establish a Mission and within four days the OM was on the ground implementing its mandate. Although the work of the OM and its staff is highly praised by participating States, there have been reservations about the limited scope of the Mission's mandate which may only monitor the movements and activities at two Russian border crossing points (BCP). Despite repeated efforts to expand the OM's mandate, participating States have not been able to reach consensus. A lack of effective border monitoring from both sides means that accusatory statements in relation to the movements of

7 Cf. Organization for Security and Co-operation in Europe, Special Monitoring Mission to Ukraine, *Report of the Chief Monitor to the OSCE Permanent Council, 22 April – 20 July 2016, Vienna, 28 July 2016*, PC.FR/25/16, 26 July 2016.

8 Cf. Organization for Security and Co-operation in Europe, Special Monitoring Mission to Ukraine, *Report of the Chief Monitor to the OSCE Permanent Council, 28 September 2016 – 12 January 2017, Vienna, 19 January 2017*, PC.FR/1/17, 18 January 2017.

military assets cannot be verified. Full observance by all parties of the Minsk Protocol and an expanded presence for the OM could contribute to confidence-building.

Operational Challenges

The initial mandate of the SMM and subsequent roles emanating from Minsk did not envisage OSCE monitoring teams engaged in monitoring a ceasefire regime in an environment of continuing armed conflict. Nor did it foresee the prevalence of death and injury to civilians or the destruction of infrastructure and property. These unforeseen aspects create real security challenges that hinder the SMM in its operational activities.

Staff and Security

Since 2014, the SMM has found itself operating in a highly hostile, tense, and unpredictable security environment driven by threats related to armed conflict. Crossfire, abduction, mines, UXOs, and explosive remnants of war (ERW) are just a few of the main threats that Mission personnel are exposed to on a daily basis. As the SMM has expanded in role and size, there has been a need for enhanced security for monitors and for more staff with specialized skills. Apart from experience in ceasefire verification and the identification of weapons systems, skills such as crater analysis, the operation of mini and mid-range UAVs or thermal cameras, and experience with high frequency (HF) radio equipment make up a small sample of the knowledge required.

To ensure the security of staff, the SMM conducts permanent robust risk management based on a Mission-wide security system that includes all relevant aspects, including mission senior management, security, operations, and administration. The Mission runs mandatory Hostile Environment Awareness Training (HEAT) and provides personal protective equipment. The use of armoured vehicles and integrated communications systems, including satellite phones, HF radio, and a satellite tracking system for all SMM vehicles, complement some of the other security measures in place. The psychological effect of the SMM working environment should also not be underestimated. Living conditions in many locations are spartan, and hostile restrictions of freedom of movement, curfews, and the exposure to an ongoing conflict create unforeseen stresses. A psychological support capacity has been put in place and is being expanded. The requirement for all monitors to pass a standard, rigorous medical check prior to deployment is being implemented, not only for the benefit of the Mission but also to ensure each monitor is fully fit for duty in areas where proper medical facilities vary in standard and level of care.

To ensure health and safety, the Mission also deploys armoured ambulances and a team of international paramedics who provide immediate medical coverage. In addition to these measures, a helicopter medical evacuation (medevac) capability is currently being established. Moreover, all SMM locations assessed as hostile environments are subject to constant security risk assessments, and relevant risk mitigation measures are applied. SMM senior staff and security officers regularly engage with the sides at all levels to highlight incidents, demand follow-up, and insist upon adherence by all to the Minsk arrangements.

Technical Solutions

Consequently, security issues arising from the ongoing conflict, restrictions in the Mission's freedom of movement, and lack of access to particular areas – either due to fighting or through the presence of mines and UXOs – have necessitated the increased use of technical means for monitoring that are not usually found within a civilian organization. These include satellite imagery, thermal cameras, and UAVs. The procurement alone of such specialized equipment and services is unique in OSCE history. The commercial research and contract negotiation required to outsource full service “turnkey” solutions for the provision of technical services such as UAVs and camera-based surveillance systems are so complex that the OSCE has had to tap into external technical expertise. Such challenges are further exacerbated by deteriorations in the security environment, which cause service providers to either withdraw or increase their prices to ensure commercial viability. While other organizations, such as the United Nations and the European Union, can draw on military expertise, the OSCE is unique addressing such issues in the context of a strictly civilian mandate.

Experience and training have also enabled the SMM to meet technical challenges such as the use of an integrated layered-monitoring concept, which includes satellite imagery as well as mini, mid-range (four to 30 km), and long-range UAVs⁹ (up to 250 km) to improve planning and support for ground monitoring activities. While satellite imagery enables greater trend analysis over a wide area, it is often impossible due to weather conditions and lack of coverage at certain times of the day. Long-range UAVs allow for monitoring at night and real-time observations of areas otherwise inaccessible to ground patrols, but they too are hampered by atmospheric conditions, in particular those prevalent during winter in eastern Ukraine. Moreover, one of the biggest challenges to UAV operations is their explicit targeting by sophisticated jamming equipment and deliberate downing by anti-aircraft weaponry and small-arms fire. Apart from the financial implications (long-

9 Due to extended contract negotiations, the SMM has not deployed long-range UAV capabilities since 3 August 2016 and is currently engaged in a new tender process for long-range UAV services.

range UAVs accounted for almost 17 per cent of the budget), actions against SMM UAVs are in clear violation of the Minsk agreements. Continued acts of aggression towards SMM UAVs are likely to have major budgetary implications for both future operations and participating States footing the bill.

By working with technical experts to examine technologies that complement UAVs and satellites, the SMM has installed thermal cameras in specific “hotspots” in order to ensure 24/7 monitoring. The first camera was deployed in the village of Shyrokyne in January 2016, two more were placed near Donetsk airport in April 2016, and an additional three cameras were deployed in the disengagement areas in October 2016. In placing the systems, the SMM has had to work around such challenges as obtaining security guarantees, ensuring data integrity, and tampering. However, the provision of reliable power supplies and access for maintenance are issues still being tackled. The monitoring enhancement provided by the use of cameras means that additional systems with enhanced capabilities will be deployed. In addition, more sophisticated systems, such as acoustic sensors that would assist in more accurate ceasefire reporting are being considered as possible tools for the Mission.

The sheer volume of data generated by traditional monitoring tools and innovative technologies as well as the need to process and analyse these is in itself a challenge. One day’s worth of information could include up to 60 patrol reports as well as detailed imagery from satellites, cameras, and mini-, mid-, and long-range UAVs, all of which must be analysed and interpreted before it can be of use. To address this, the SMM has established an Information Management Cell staffed with image analysts, geographic information experts, and information and database managers. However, the kind of technical systems and staff required to run information management processes are of the kind never before seen in the context of OSCE field activities and are not readily available. Working with international partners and support from participating States in this area has allowed the OSCE to achieve synergies and avoid duplication of efforts.

Conclusion

At the time of writing, the situation in eastern Ukraine shows signs of deteriorating further. The violent conflict continues, while political negotiations and efforts to increase the number of disengagement areas are bearing little fruit. In the meantime, the human cost continues to rise and the humanitarian emergencies in conflict-affected areas need urgent addressing. The TCG and its working groups remain relentless in mediating and facilitating dialogue. The SMM continues to make every effort to fulfil its mandate, taking daily risks in its monitoring activities. The real challenge remains to muster political will and compromise on all sides to resolve the conflict. As the only

regional security organization bringing all key stakeholders to the table, the OSCE's role as a forum for inclusive dialogue and joint action remains as crucial as the engagement of all OSCE actors.

Overall, the OSCE's experience with the deployment and management of the SMM has shown the limitations of civilian crisis management, particularly when faced with a violent conflict and a high-risk security environment. Nonetheless, from the beginning of its engagement, the OSCE has made immense efforts to adapt its capacities to an entirely novel situation. The deployment of the SMM has demonstrated the OSCE's ability to respond quickly and effectively to a crisis. The identification of innovative solutions, the use of new technologies, the development of complex operational procedures, and the ability to steer a large mission – the bulk of which is deployed in a zone of hot conflict – through a landscape of shifting political and operational challenges require, in many ways, pioneering work from the Organization and its staff. This trailblazing effort will continue to focus on the OSCE's engagement in Ukraine. However, if the right lessons are learned, the benefit of these experiences will be an OSCE that is more ready to respond to crisis than ever before. Lessons derived from the OSCE's innovative approach could also provide inspiration for the wider international community in responding to crisis with lightweight and relatively inexpensive civilian operations equipped with modern technology.

At the same time, the crisis in Ukraine has demonstrated a need to further enhance the OSCE's conflict cycle toolbox, particularly its capacities to react swiftly and forcefully to emerging and escalating conflicts. In doing so, the OSCE will have to take into account the evolving character and growing complexity of today's conflicts and crisis situations. An analysis of the changing security environment in the OSCE area suggests that the Organization will continue to face highly difficult situations and multifaceted conflicts in the future. This has already prompted the OSCE to comprehensively examine its capabilities to plan and implement complex peace operations with tailored assets and resources along all phases of the conflict cycle, including in high-risk security environments. This examination forms a part of the OSCE's wider lessons-learning process, which is ongoing at all levels across the entire Organization. The Conflict Prevention Centre (CPC) has been heavily involved in this task from the beginning and will continue to act as a driving force behind operational and organizational innovation with regard to the OSCE's engagement in the field, be it in Ukraine or elsewhere.

Old and New Challenges for the OSCE

The OSCE is the largest regional international organization in its area with a comprehensive agenda and an inclusive membership. In principle, there is no question it cannot address. In reality, however, in line with the political will of relevant participating States, it is largely limited to more peripheral, supporting, and assisting roles. These tasks can be significant, important, and in some cases, such as currently in Ukraine, the OSCE can even play an irreplaceable role. However, key political, economic, and military issues are dealt with elsewhere, at bilateral levels, in permanent or temporary informal formats (i.e. G7, G20, Normandy) or in international organizations such as the UN, the EU, or NATO. This basic limitation of the role of the OSCE should not be forgotten when dealing with this organization. However, this limitation also creates opportunities.

At first sight, the OSCE seems to be in relatively good shape; its political standing has significantly improved. While pronouncements of the Organization's death were commonplace before 2014, this is no longer the case. With its Special Monitoring Mission (SMM) to Ukraine, the OSCE plays a key role in this country. The Organization has also been steered by consecutive strong Chairmanships; most journalists now know its acronym; and Secretary General Lamberto Zannier is finding it far easier to get meetings with the UN Secretary-General than earlier on.

In addition, the 23rd Ministerial Council (MC) Meeting in Hamburg in December 2016 performed better than expected and adopted ten decisions, including substantial ones on conventional arms control,¹ economic connectivity,² migration,³ and the Transdniestrian settlement.⁴ Paradoxically, the OSCE, which stands for co-operative security, seems rather to be profiting than suffering from the rising tensions and crises in Europe.

However, it remains to be seen just how sustainable this remarkable recovery is. To answer this question, it is necessary to analyse the OSCE's strengths and weaknesses. In that regard, this brief contribution will try to

1 Cf. OSCE, Ministerial Council, Hamburg 2016, *From Lisbon to Hamburg: Declaration on the Twentieth Anniversary of the OSCE Framework for Arms Control*, MC.DOC/4/16, 9 December 2016, at: <http://www.osce.org/cio/289496>.

2 Cf. OSCE, Ministerial Council, Hamburg 2016, *Decision No. 4/16, Strengthening Good Governance and Promoting Connectivity*, MC.DEC/4/16, 9 December 2016, at: <http://www.osce.org/cio/289316>.

3 Cf. OSCE, Ministerial Council, Hamburg 2016, *Decision No. 3/16, OSCE's Role in the Governance of Large Movements of Migrants and Refugees*, MC.DEC/3/16, 9 December 2016, at: <http://www.osce.org/cio/289491>.

4 Cf. OSCE, Ministerial Council, Hamburg 2016, *Ministerial Statement on the Negotiations on the Transdniestrian Settlement Process in the "5+2" Format*, MC.DOC/2/16, 9 December 2016, at: <http://www.osce.org/cio/288181>.

figure out the most pressing political, normative, and operational challenges the Organization is currently facing, and the options it has to address them.

The OSCE's Strengths and Weaknesses

The OSCE has to adapt to a constantly changing political environment and to redefine its role accordingly. On the basis of the Organization's actual performance, one can see what the OSCE can and cannot achieve, and what it could achieve if certain conditions were to change.

The OSCE's Strengths

As the most inclusive international organization with a comprehensive agenda in its geographical space, the OSCE has a number of key strengths.

The most fundamental is that it provides a *broad and differentiated value base*. The Organization has adopted a comprehensive set of values, norms, and commitments in all three dimensions. These enable it to develop comprehensive co-operative policies, with the Astana vision of a "security community" as the ultimate goal of this. However, because this ability depends on the degree to which these norms and commitments are implemented by all the participating States, or at least the vast majority of them, it is extremely limited at present. The strength of a shared value base becomes a weakness when these very values are so severely disputed as is currently the case. But even if the OSCE norms and commitments are not implemented in a number of countries, they remain the most fundamental strength of the OSCE, one that cannot be given up.

Second, the OSCE provides an enormous *convening power*, meaning the capacity to bring people – in this case primarily the representatives of states – together to discuss issues of any kind whatsoever. This capacity is a direct consequence of its inclusiveness and means that the obstacles for convening people are low and the probability of bringing them together is high. A good example is the informal Ministerial Council Meeting that was convened in Potsdam on 1 September 2016 by the German Chairmanship and brought together around 40 foreign ministers. The 2016 Ministerial Council meeting in Hamburg saw almost 50 foreign ministers assemble. Of course, this success was facilitated by the fact that it was Germany who issued the invitations. But it also shows the OSCE's strong convening power more generally, a power that can be further enhanced by strong leadership.

A third element of strength is the Organization's *agenda-setting capacity*. A good example is the introduction and broadening of the concept of "economic connectivity" since Switzerland's 2014 Chairmanship. This concept, invented by a young gifted scholar at the ETH Zurich (Federal Institute of Technology) in Switzerland, was introduced by Switzerland in 2014, and

continued and expanded by the 2015 Serbian and 2016 German Chairmanships. Finally, the 2016 MC Meeting adopted a decision on economic connectivity, thus turning it into a legitimate OSCE issue.

Another example concerns the introduction of the issue of migration by the 2016 German Chairmanship. The Swiss ambassador chaired the related working group, whose work was crowned by a decision at the Hamburg MC. A third example concerns the reintroduction of an established topic that had been damaged by negative developments: conventional arms control in Europe.

These examples show that in the case of the OSCE new concepts or, in broader terms, political innovation is mainly introduced by the participating States. This does not mean that innovation in the OSCE is exclusively generated by the participating States. The examples of the “Security Days”, the brainchild of Secretary General Lamberto Zannier, or the creative implementation of Decision No. 3/11 adopted at the 2011 Vilnius Ministerial Council Meeting on “The Conflict Cycle” by the Conflict Prevention Centre (CPC)⁵ show that innovation in the OSCE can also be initiated by the Organization’s executive structures and institutions. This is probably more true of procedural, organizational, and operational issues than for agenda-setting in a narrower sense, i.e. the introduction of new subjects.

A fourth element of strength of the OSCE is (potential) *actorness*, the capability to act if consensus can be achieved. The crisis in and around Ukraine shows that this capacity is particularly important in cases where the OSCE is the best-suited or even the only international organization that can act in a given environment. The Ukraine crisis points again to the salient role of political leadership for the OSCE’s actorness. Without the strong leadership of the Swiss Chairmanship and the support of a number of other governments, the SMM mandate of 21 March 2014 would not have been adopted and the OSCE’s actorness would not have materialized in this case.

A fifth and final element is the OSCE’s multiple *ties to several strata of civil society*. Examples include the annual Human Dimension Implementation Meeting, the largest human rights meeting in Europe, that gives NGOs full access and speaking rights; or the relatively new (founded in 2013) OSCE Network of Think Tanks and Academic Institutions, which convenes 67 member institutes from 37 states for joint projects.

Together, these five dimensions of strength – the OSCE’s normative base, convening power, agenda-setting capacity, actorness, and ties to civil society – can be multiplied by strong political leadership. Under some conditions, political leadership is even the precondition that allows them to exist in the first place.

5 Cf. Claus Neukirch, *The Special Monitoring Mission to Ukraine: Operational Challenges and New Horizons*, in: Institute for Peace Research and Security Policy at the University of Hamburg (ed.), *OSCE Yearbook 2014*, Baden-Baden 2015, pp. 183-197.

The OSCE's weaknesses are closely related to its strengths. In some cases, a potential strength becomes a weakness simply because of a lack of political will and leadership.

The most prominent and most frequently mentioned example is the *difficulty in achieving consensus decisions*, particularly in the current political environment of mounting disagreements and tensions. The 2010 Kyrgyzstan crisis, in which the OSCE could have taken on a relevant role if the states had achieved consensus, is a case in point. However, those instances where consensus was not achieved and the OSCE could not act should not cause us to forget the positive cases where the participating States achieved consensus and the OSCE was able to act. The OSCE's actorness is an either/or function: Either the Organization can act or not, and there is little in between. Political leadership can narrow or bridge this *hiatus*, as was successfully done in the case of the SMM mandate. However, there is no guarantee of success, particularly under the current political conditions.

A second and even further-reaching weakness is the *dissolution of the normative basis* shared by the participating States. This could be observed as a gradual process over the last fifteen years, but recently it has sped up substantially and is aggravated by the authoritarian turn in too many Western countries. For an organization as values-based as the OSCE, a situation where it can no longer base its concrete policies on these values represents a real dilemma.

A third weakness of the OSCE, one that has been particularly evident during periods when the OSCE has received little political attention, is *weak political leadership*. At least for the time being, this has improved with a series of subsequent strong Chairmanships, which are key for the functioning of the Organization.

A fourth and widely recognized weakness of the OSCE is its *weak operational capabilities*. This has various aspects, including financial resources, legal personality, planning capacity, specialized expertise, and operational leadership. However, as shown not only by the implementation of Decision No. 3/11, but also by the 2016 OSCE Unified Budget, which created a number of additional posts at the grossly understaffed CPC in the OSCE Secretariat, this problem can be addressed by interested participated States and by the Organization's executive structures, though only in a very gradual manner.

And finally, the *OSCE's ties to civil society* actors are mostly limited to the human dimension and thus represent an underused potential. While many NGOs participate in the OSCE process in relation to the human dimension, there is almost no involvement of civil society in the politico-military dimension. This has only recently started to change with the development of the OSCE Network of Think Tanks and Academic Institutions, which works on

security-related projects. The German Chairmanship's conference on "Connectivity for Commerce and Investment" in Berlin in May 2016, more than half of whose participants came from the private sector, impressively demonstrated the potential for civil society involvement.

The OSCE's various strengths and weaknesses produce a kind of variable geometry whose form depends on its input variables. Each dimension offers opportunities to strengthen the Organization – or to weaken it through neglect or underinvestment. In the following, I discuss the most pressing political, normative, and operational challenges facing the OSCE.

Addressing Key Issues

The political environment is becoming more complicated than ever before. Among the developments of direct relevance for the OSCE, the following four are particularly prominent.

First, relations between Western states and Russia are continuing to worsen, and there is no indication that a positive turn is imminent. There is even a danger that widely diverging views might significantly block the work of the OSCE. At the Hamburg MC Meeting, Russia was not prepared to adopt any human dimension decision tabled by the Chairmanship. As a possible response, a major Western delegation considered the option of adopting no decisions at all, as long as Russia was not prepared to accept decisions on human dimension issues. Should this logic prevail, it could result in a major blockage that would substantially degrade the functioning of the Organization as a whole.

Second, the situation is further worsened by the authoritarian turn in a number of Western states, most prominently in the USA. Authoritarian Western parties such as the Freedom Party of Austria (FPÖ) are already starting to sign co-operation agreements with Putin's ruling United Russia party.⁶ Things mainly depend on the course taken by the administration of US President-elect Donald Trump, but a united authoritarian coalition between Western states and the Russian Federation can no longer be excluded as definitely as a year ago. This would not only lead to a completely different political constellation in Europe and in the world that would be so new that nobody has calculated its implications. *In extremis* it could even lead to the breakup or at least severe rupture of the West as a political coalition and concept and to the most severe undermining of its normative base, which is almost synonym with the OSCE *acquis*.

Third, this is aggravated by the more general tendency of a weakening of multilateralism as a win-win policy concept (even among former propon-

6 Cf. FPÖ schließt Abkommen mit "Einiges Russland" [FPÖ Makes Deal with "United Russia"], in: *Frankfurter Allgemeine Zeitung*, 20 December 2016, p. 2.

ents) and a growing tendency towards protectionism, isolationism, and other variants of unilateral approaches.

And *fourth and finally*, specifically with regard to Europe, one can add that the continent is increasingly influenced by external factors over which it has less and less control. Two completely different examples, which, however, show the broadness of this trend, are the wars in the Middle East and the influence of China.

In this complicated situation, the OSCE should address a number of issues it either cannot avoid or that would open up new opportunities for the Organization and its participating States. One group consists of areas where the OSCE has already adopted decisions – such as economic connectivity and migration – where a range of concrete focal points are possible.

A good example to consider here is *conventional arms control* (CAC), a subject that has long been under the umbrella of the OSCE, but which has been downgraded and undermined over the last fifteen years. CAC was placed back on the OSCE agenda by an initiative launched by the German foreign minister, Frank-Walter Steinmeier. The Ministerial Declaration “From Lisbon to Hamburg” states that “arms control, including disarmament and confidence- and security-building, is integral to the OSCE’s comprehensive and co-operative concept of security,” and “today, in Hamburg, we commit ourselves to exploring, *inter alia*, how the negative developments concerning the conventional arms control and CSBM architecture in Europe can be reversed”.⁷ For several reasons this will be a difficult task, but it is one that definitely has to be addressed. *First*, it will be difficult to achieve substantial arms control agreements as long as the key questions of a future European order are not answered. Yet CAC needs to be a central element of such a co-operative order, which means that both elements have to be developed in parallel. *Second*, due to the substantial technological progress achieved during the last 30 years, it will be more difficult now than it was during the CFE negotiations in 1989-1990 to define what items CAC should cover and what it should not. Among other things, this concerns drones, cruise missiles, missile defence, certain naval capabilities, and paramilitary forces. *Third*, while it should be clear that each OSCE participating State in the area of application of a future CAC agreement should be entitled to become a party to this agreement, the definition of the area of application is far from clear, as is the way in which developments in neighbouring regions are taken into account. And *fourth*, establishing an effective CAC process will be difficult, given how far we are from official consultations, never mind negotiations. Previously, the Steinmeier initiative had only been discussed by a “group of friends” and at bilateral levels, but with the declaration “From Lisbon to Hamburg”, it has also become a matter for the OSCE as a whole. It remains to be seen how these two elements will be combined.

7 OSCE, From Lisbon to Hamburg, cited above (Note 1), paras 2 and 3.

A second group of issues, which might be even more difficult to deal with, are new and disputed issues as well as areas where steps beyond the declaratory level would be useful. The three examples that shall be discussed here concern addressing the authoritarian turn, elaborating workable strategies for addressing violent extremism and radicalization that lead to terrorism (VERLT), and addressing the OSCE's neighbour China.

Addressing the authoritarian turn, which is affecting more and more Western countries, is likely to become unavoidable if the OSCE wants to maintain its moral and normative credibility. It is trivial, but OSCE commitments apply to all participating States. If the Polish government is considering steps to undermine the "right of peaceful assembly and demonstration" (1990 Copenhagen Document, para. 9.2), then this deserves the same criticism as comparable steps undertaken by any state "East of Vienna". For the OSCE institutions, raising such issues is a matter of credibility. In political and psychological terms, this will be difficult, because it might mean having to criticize EU member states or NATO allies. It might also be difficult for future Chairmanships who act under the pressure of strong authoritarian forces in their own countries. Overall, the authoritarian turn in the Western world represents a serious test of the normative integrity of the OSCE and its participating States.

Elaborating workable strategies for addressing VERLT can build on the OSCE's comprehensive *acquis* in this area, which includes the most recent decision adopted in Hamburg.⁸ With its comprehensive value base and its civilian character, the OSCE is perfectly suited to do more in this field. While current efforts are largely but not exclusively declaratory, the task would be to develop workable prevention strategies against violent extremism and radicalization. That would need different approaches for different regions and target groups. And it would necessitate a comprehensive inclusion of a range of civil society actors, without whom a workable prevention strategy cannot be achieved. In a broader sense, the OSCE could serve "as a laboratory of ideas in cross-dimensional security"⁹, as the former Secretary General Marc Perrin de Brichambaut once put it. Such a process could start gradually with projects in various countries, including in Western Europe.

Addressing China has become more important and more difficult in equal proportions. China has been becoming an active player not only in Central Asia, but also in Eastern and South-eastern Europe. China has policies on Europe and access to Europe, whereas the European international organizations such as the EU and the OSCE rarely have policies on China and

8 OSCE, Ministerial Council, Hamburg 2016, *Declaration on Strengthening OSCE Efforts to Prevent and Counter Terrorism*, MC.DOC/1/16, 9 December 2016, at: <http://www.osce.org/cio/288176>.

9 Marc Perrin de Brichambaut, Six Years as OSCE Secretary General: An Analytical and Personal Retrospective, in: Institute for Peace Research and Security Policy at the University of Hamburg (ed.), *OSCE Yearbook 2011*, Baden-Baden 2012, pp. 25-48, here: p. 38.

only limited access. It is time for European international organizations (and states) to work to counter this emerging asymmetry. This includes the OSCE, which needs to begin to create policies on China at the very least. The invitation of a Chinese delegation to the economic connectivity conference of the German Chairmanship was a first step.

Addressing the Normative Dilemma

The OSCE is a deeply norm-based organization. Principles, norms, and commitments are the political DNA of the OSCE and cannot be cut out without destroying the Organization. The OSCE institutions function as the guardians of the OSCE's principles and commitments.

There has been a great deal of criticism over the years of the ineffective implementation of OSCE commitments, particularly in the human dimension. However, the call for better implementation implies that the commitments are shared in principle and only their implementation must be improved. This is also the underlying credo of the OSCE institutions and of those OSCE meetings where the implementation of the OSCE human dimension commitments is reviewed – the annual Human Dimension Implementation Meeting, the Supplementary Human Dimension Implementation Meetings, and the Human Dimension Seminars.

However, considering the problem to be solely one of ineffective implementation contains an element of political self-deception. A number of OSCE commitments are not or are no longer or have perhaps never been shared by some participating States. This is a question of substance, not merely of implementation. It concerns two main areas: First, while it is true that the Helsinki Decalogue has not been revoked by any participating State, the interpretations of the principles and their mutual relationships they hold are so different – even mutually exclusive in parts – that it is impossible to base concrete policies on a shared understanding of them. *Second*, the norms concerning human rights, democracy, and the rule of law contained in the 1990 Copenhagen Document, the Charter of Paris, and many follow-up documents are no longer shared by a number of countries. Or they are shared in a way and by means of an interpretation that is perceived elsewhere as a distortion of these very norms. Perhaps it was naïve to assume that societies that have never experienced democracy and states that are essentially pre-modern could take on the OSCE normative *acquis* within a couple of decades.

The result of this divergence is a normative consensus among relevant participating States that is not strong enough to serve as a basis for political decision making. As a consequence, one of the OSCE's most significant defining features – the co-operative security policy that has been built up over decades, something that is by definition based on norms – has become almost

untenable. This creates a fundamental dilemma for the OSCE – one that has not yet been openly discussed: While the OSCE cannot give up its principles and commitments to serve merely as a forum for interest-guided negotiations, it would be equally pointless to simply insist on principles that are not observed by a significant portion of the participating States.

This is a true dilemma that offers no easy solution. Yet there is a way out, which is to combine practical interest-based policies in areas such as conflict management with an honest long-term dialogue on norms and principles. A dialogue of this kind, in which differences of opinion are discussed openly and not concealed as implementation deficits, does not yet exist in the OSCE, for two main reasons: Not only is it more comfortable to live on with the fiction that we still have a widely shared normative basis, there is also a widespread fear in the Western countries that starting a dialogue on norms would lead to negotiations in which OSCE principles and commitments would be watered down. It is thus vital to insist that OSCE principles and commitments are not renegotiated. Yet there do need to be discussions on their meaning and interpretation, and there is no reason to assume that this will necessarily lead to the principles being diluted. On the contrary, if OSCE commitments are not discussed, their relevance is likely to decrease further in a number of countries.

A dialogue on norms is a long-term effort with little or no visible short-term effects. It will only be fruitful if it is not limited to levelling accusations at certain countries but also addresses deficits in established Western democracies that the authoritarian turn has made increasingly visible. Track II and track 1.5 formats could play an important role here. The recent report “European Security – Challenges at the Societal Level” by the OSCE Network of Think Tanks and Academic Institutions recommended “conducting a norms dialogue at the societal level” and “creating a dialogue format for reflection on a common normative basis, starting with the mapping of the status quo”.¹⁰

Strengthening the OSCE's Operational Capacities

The case of Ukraine shows in an exemplary manner the possibilities and limits of the OSCE. The political management of this conflict is not being carried out in the OSCE context, but under the Normandy Format (France, Germany, Russia, Ukraine) and at bilateral levels, while the OSCE SMM tries to implement the political decisions achieved in these formats on the ground. These two levels are synchronized by the Trilateral Contact Group (TCG; Russia, Ukraine, OSCE), which has communication and negotiation links to

¹⁰ Wolfgang Zellner (principal drafter)/Irina Chernykh/Alain Déléroz/Frank Evers/Barbara Kunz/Christian Nünlist/Philip Remler/Oleksiy Semenyi/Andrei Zagorski, *European Security – Challenges at the Societal Level*, OSCE Network of Think Tanks and Academic Institutions, Hamburg, December 2016, p. 32.

the de facto authorities in the Donetsk and Luhansk regions,¹¹ who have co-signed the Minsk Agreements together with the three members of the TCG.

The fact that the OSCE is not sitting in the political driving seat does not mean that the tasks it is performing are not important. Quite the contrary: What the SMM is currently doing on the ground in eastern Ukraine is essential for the conflict management process, and could not be done by any other international organization. The EU and NATO are part of the conflict constellation, and the UN is anything but eager to engage in view of the overload of tasks it faces elsewhere, particularly in Africa. In short: The OSCE is, at least in this case, irreplaceable in an implementation function.

Nobody would have guessed that the OSCE would be able to deploy and equip the 1,000-person SMM in a couple of months. Far stronger organizations such as the UN or the EU would have needed considerably more time for the same task. This is by no means a trivial statement, and it is worth exploring in more detail why the OSCE was able to deploy the SMM so swiftly. The following reasons seem to be relevant.

First, the CPC systematically and creatively translated Decision No. 3/11 on “Elements of the Conflict Cycle”,¹² taken at the 2011 Vilnius Ministerial Council into practice over two years. Two innovations were of key importance here: A *rapid deployment roster of first responders* drawn from other OSCE field operations made it possible to deploy some 30 individuals within days. A *virtual pool of equipment* based on pre-prepared window contracts facilitated the quick procurement of equipment items. “Thanks to the pre-arranged contracts, the Secretariat was able to buy up all the flak jackets in stock in Austria, get a range of new armoured vehicles on a truck to Kyiv within days, and purchase other important equipment. When the people arrived in the field, they had the equipment they needed.”¹³ Compared to the only other field operation of comparable size in OSCE history, the 1998/1999 Kosovo Verification Mission, this represented a significantly higher level of operational preparedness.

The *second* factor contributing to the success was the highly energetic Swiss Chairmanship, which not only initiated and led the political process, but also strongly supported operational efforts.

Third, many participating States supported the deployment and operation of the SMM by seconding staff and granting voluntary financial contri-

11 For an excellent account of the work of the TCG see: Heidi Tagliavini, *Mediation in the Crisis in Eastern Ukraine up to 23 June 2015*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2015*, Baden-Baden 2016, pp. 217-227. Ambassador Tagliavini was the first Special Representative of the OSCE Chairperson-in-Office for the conflict in eastern Ukraine.

12 Organization for Security and Co-operation in Europe, Ministerial Council, Vilnius 2011, *Decision No. 3/11, Elements of the Conflict Cycle, Related to Enhancing the OSCE's Capabilities in Early Warning, Early Action, Dialogue Facilitation and Mediation Support, and Post-Conflict Rehabilitation*, MC.DEC/3/11, 7 December 2011, at: <http://www.osce.org/mc/86621>.

13 Neukirch, cited above (Note 5), p. 186.

butions that covered a substantial share of the SMM budget during the initial period. In autumn 2016, 44 participating States seconded almost 700 monitors.¹⁴ France and Germany assumed a particular political responsibility as mediators in the Normandy Format.

Overall, two things are interesting in the development of the SMM and its operational pre-conditions: *First*, while it is impossible to specifically weigh the three tightly interwoven factors mentioned above, one can say that the implementation of Decision No. 3/11 was carried out by the OSCE executive structures alone, whereas in the other two phases essential input from the Chairmanship and the participating States was added. It can be seen as a benign coincidence that all three factors were in place at the same time and interacted without friction. More generally, this can be said to show that the OSCE's peak performance requires co-operation between a strong Chairmanship, other relevant participating States, and the OSCE's executive structures.

Second, while Decision No. 3/11 was implemented gradually over two years, the SMM was established rapidly following the adoption of its mandate on 21 March 2014. This marked a major increase in the OSCE's level of operational activity.

Thus, one lesson learned from Ukraine is that a leap ahead in the OSCE's operational capabilities has to be prepared by a phase of gradual improvements. One can only hope that this experience remains valid if and when the OSCE has to face a situation where the creation of an even larger or technically more complicated field operation will become necessary – be it a police mission to Ukraine, as repeatedly requested by the Ukrainian government, or a peace operation in Nagorno-Karabakh after an agreement resolving the conflict there.¹⁵

Political Leadership

In the current situation, political leadership is key. In the last couple of years, the OSCE has been lucky to have strong Chairmanships, and this will probably remain so in the immediate future. However, in the longer term there are several options for co-leadership that could institutionalize stronger organizational governance. One means for this is a strong Troika, in which the leadership of the Chairmanship is strengthened by input from the previous and future Chairmanships. Beginning with the 2014 Swiss Chairmanship, the Troika has recently been strengthened significantly. In the same vein, the

14 Cf. OSCE, Special Monitoring Mission to Ukraine, *Status Report as of 26 October 2016*, at: <http://www.osce.org/ukraine-smm/277396>.

15 For details of which capacities the OSCE lacks to be able to conduct even a small peace-keeping operation, see: Wolfgang Zellner, *European Security: How to Strengthen OSCE Peace Operations*, in: Geneva Centre for the Democratic Control of Armed Forces (DCAF), *OSCE Focus Conference Proceedings*, 9-10 October 2015, Maison de la Paix, Geneva, Geneva 2016, pp. 92-112.

benefits have been recognized of not changing the Special Representatives of the Chairmanship every year, but letting them serve for several years. Another option is for interested states to assume the chair of one of the three committees of the Permanent Council or an informal working group dedicated to a specific issue. A good example is the informal working group on cyber issues, which reached agreement on a second package of cyber confidence-building measures under the leadership of US ambassador Daniel Baer in January 2016.

Similar initiatives are also conceivable in relation to more operational issues. Some time ago, a group of states including Finland, Switzerland, and Turkey made it their goal to work towards the creation of a mediation capacity within the CPC. This they achieved successfully. There are other examples, but the important thing is a change in mentality: States should feel responsible for the Organization all the time, and not only in their Chairmanship year.

From Lisbon to Hamburg – Supporting a New Start in Conventional Arms Control in Europe

Arms Control and Confidence- and Security-Building Measures under Germany's OSCE Chairmanship in 2016

The OSCE Ministerial Council in Hamburg in December 2016 was a milestone for Europe's security. Contrary to expectations, it proved possible to adopt significant ministerial declarations, particularly in the field of conventional arms control and confidence-building measures. The agreement reached in Hamburg, entitled "From Lisbon to Hamburg: Declaration on the Twentieth Anniversary of the OSCE Framework for Arms Control", does not merely have a politically symbolic impact, but also includes a clear mandate to create a "structured dialogue" on security-policy challenges in Europe and their implications for arms-control policy. This means that a crucial step has been taken towards putting Foreign Minister Frank-Walter Steinmeier's arms-control initiative firmly on the OSCE agenda.

Cracks in the European Arms-Control Architecture

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For many years after the end of the Cold War, it seemed obvious that the common principles and obligations laid down in the Charter of the United Nations, the Helsinki Final Act, and the Charter of Paris would form the foundations for peace, stability, and co-operation in Europe in the future. However, cracks have developed in these foundations. Russia's annexation of Crimea in violation of international law and Moscow's ongoing intervention in eastern Ukraine have destroyed trust that was painstakingly built up over the course of 40 years, calling into question our co-operative security architecture, which is based on common values and principles, and plunging Europe into its most serious security-policy crisis since the end of the Cold War. The effects of this crisis can be felt almost every day. For example, 26 years after the end of the confrontation between the Eastern and Western blocs, large-scale military exercises are once again being held in Europe, military aircraft are playing cat and mouse over the Baltic and Black Seas, and concern is rising about the possibility of escalation – intended or accidental.

In chairing the Organization for Security and Co-operation in Europe (OSCE) in 2016, Germany consciously took on a responsibility, doing so not despite, but rather because of the current challenges for security policy in Europe. In these difficult times, it is particularly important to preserve, and

where possible enhance, the OSCE as an indispensable forum for dialogue, security, and confidence-building in Europe. In addition to its crisis- and conflict-management activities in Ukraine, the German federal government worked hard during the Chairmanship year to put the OSCE on the right track for the future and the long and difficult path back to a co-operative security architecture in Europe. In doing so, it took a three-pronged approach of renewing dialogue, rebuilding trust, and restoring security.

The instruments for conventional arms control and confidence- and security-building measures (CSBMs) created within the OSCE framework have been one of the pillars of co-operative European security architecture since the beginning. The path to these instruments was paved by a lengthy, and at times difficult, dialogue conducted over 40 years ago under the auspices of the Conference on Security and Co-operation in Europe (CSCE) between senior politicians and members of the military on fundamental issues of European security and a more stable military balance in Europe. One of the most important outcomes of this dialogue was an extensive network of interlinked and mutually reinforcing arms-control commitments aimed at containing potential movements towards escalation in advance.

The Treaty on Conventional Armed Forces in Europe (CFE Treaty) concluded in 1990 between the then member states of NATO and the Warsaw Pact is a key element of this arms-control architecture. To date, it has led to the destruction of over 60,000 heavy weapons in Europe. In particular, its regional ceilings on the numbers of armed forces that can be stationed have played a major role in fostering military restraint, thus enhancing security and stability in Europe. The Vienna Document (VD) and its mechanisms for minimizing risk and building confidence (e.g. by announcing and observing large-scale military exercises), and co-operative observation flights under the Treaty on Open Skies, have also significantly increased trust and predictability among armed forces in the OSCE area. At the OSCE Ministerial Council in Lisbon in 1996, this system of mutually reinforcing agreements was designated the “Lisbon Framework for Arms Control” in the OSCE area.

Today, some 20 years later, this conventional arms-control architecture, which proved to be a reliable guarantor of security and stability for many years, is showing visible cracks. It has not kept pace with the military, technological and, above all, political changes in Europe. For example, the adapted CFE Treaty negotiated in 1999 never entered into force due to Russia’s incomplete fulfilment of its commitments to withdraw its forces from the territory of the Republic of Moldova and Georgia. Since 2007, we have also had to deal with Russia’s unilateral suspension of the earlier CFE Treaty. A large number of crises and regional conflicts have revealed clear limitations in the applicability of the existing instruments, while the Ukraine crisis has widened the rifts between Russia and the West. The mechanisms of the VD and the Treaty on Open Skies, which are actually aimed at fostering greater confidence and stability, are increasingly being circumvented via the

exploitation of gaps in their regulations, and the spirit of the treaties is being ignored.

In short, the OSCE-based arms-control architecture is in crisis. As a result, there is a danger of a new arms race in Europe. We must prevent this from happening.

Bringing Structure to the Future of Conventional Arms Control

One initiative related to the Lisbon Framework for Arms Control that was launched during Germany's OSCE Chairmanship in 2016 is particularly noteworthy.

In the run-up to the informal meeting of OSCE foreign ministers in Potsdam in September 2016, Foreign Minister Steinmeier called for a new start in conventional arms control. The aim of this initiative is to return to greater predictability, military restraint, and transparency in view of current developments in European security. Alongside efforts to update the Vienna Document's confidence- and security-building measures, the arms-control initiative was one of the priorities of Germany's year as OSCE Chair. In this regard, Foreign Minister Steinmeier called for the urgent launch of a structured dialogue on current security challenges and the future of conventional arms control in Europe.

Both the informal meeting of OSCE foreign ministers in Potsdam and numerous subsequent bilateral talks confirmed the interest of many OSCE participating States in this initiative. This was impressively underlined by the joint declaration by the German foreign minister with thirteen of his counterparts (Austria, Belgium, Bulgaria, the Czech Republic, Finland, France, Italy, the Netherlands, Norway, Sweden, Switzerland, Slovakia, and Spain) ahead of the OSCE Ministerial Council in Hamburg.

It would not have been possible to reach agreement on a joint approach without this support and the growing momentum found for the initiative at the OSCE Ministerial Council in Hamburg. Following difficult negotiations, it proved possible for the first time in over a decade to adopt a Ministerial Council Declaration on conventional arms control and confidence- and security-building measures ("From Lisbon to Hamburg") marking the twentieth anniversary of the Lisbon Framework for Arms Control. In this declaration, the Foreign Ministers agreed to launch a structured dialogue on challenges and risks to security in the OSCE area and their concrete implications for the future of conventional arms control. This dialogue will begin in 2017 under the auspices of the OSCE, thus sending an important signal in opposition to the erosion of the European arms-control architecture and in support of a fundamental modernization of the same. It is now vital that we bring this structured dialogue to life.

The aims of Germany's OSCE Chairmanship in 2016 included making progress on the overdue updating of the Vienna Document. Along with numerous other countries, the Federal Government actively endeavoured to make this important document on military confidence-building fit for the future. Germany's proposals on risk reduction, improving crisis resilience, doing more to prevent crises and hazardous incidents, and increasing the transparency of military activities met with broad approval and were actively supported by over 20 countries in some cases. Unfortunately, it was not possible to overcome Russia's blockade of the revised version of the VD, which was due to be reissued at the end of 2016. However, the large number of detailed amendments that were suggested during 2016 laid important groundwork for continuing the debate on updating the VD under Austria's OSCE Chairmanship in 2017.

Working closely with the countries that successively chaired the Forum for Security Co-operation (FSC) in 2016 (the Netherlands, Poland, and Portugal), Germany's OSCE Chairmanship enhanced the OSCE's role as a platform and inclusive forum for a wide-ranging European security dialogue. For example, a High-Level Military Doctrine Seminar organized jointly with the Netherlands was held in Vienna in February 2016 for the first time in many years. Along with the Polish and Portuguese FSC Chairmanships, Germany put the focus on the role of arms control and confidence- and security-building measures in security in Europe at various high-level events (e.g. the Annual Security Review Conference and the joint meetings of the Permanent Council and the FSC).

In deciding to again procure its own national observation aircraft, Germany also gave an important signal in support of the Treaty on Open Skies – a further key component of Europe's co-operative arms-control architecture. Many other States Parties to the Treaty on Open Skies will benefit from this observation aircraft by carrying out joint observation flights. Since the tragic crash of its last observation aircraft in 1997, Germany has had to use aircraft provided by other States Parties to carry out its co-operative observation flights. Since the Treaty on Open Skies entered into force, information on States Parties' armed forces and civil and military infrastructure acquired in over 1,300 flights has significantly boosted confidence-building in the Euro-Atlantic area. Moreover, the Treaty on Open Skies is the European conventional arms-control regime on which Russia works most actively.

Alongside more traditional conventional arms control in Europe, however, other important related areas of OSCE work should not be overlooked. The OSCE has played a leading role worldwide in the small arms and light weapons (SALW) segment since the publication of its document on this topic in 2000. The annual exchange of information ensures full transparency on stockpiles, exports, and imports of such weapons. This information is to be

made public in the future. On request, participating States also receive support from the OSCE for projects in areas including the destruction of surplus weapons and ammunition stockpiles and better securing of repositories. This combination of norm-setting, information exchange, and projects makes the OSCE unique. This is one of the reasons why the Federal Government has increased its contribution to the relevant OSCE project trust fund once again. In 2017, it will provide 1.8 million euros. The declaration adopted by the Ministerial Council in Hamburg on OSCE assistance projects in the field of SALW highlights the current benefits and future prospects of these activities, which also play a role in terrorism prevention, and shines a political spotlight on a field of co-operation in which progress is being made despite ongoing crises and disputes.

A further confidence-building instrument is the Code of Conduct on Politico-Military Aspects of Security. It links key concepts of the Helsinki Final Act relating to security and co-operation with issues concerning the internal deployment of armed forces in a free, democratic society in line with the rule of law. From a contemporary point of view, it is thus a surprisingly modern and innovative document and has lost none of its relevance. During Germany's OSCE Chairmanship, numerous events were held to raise awareness of the Code of Conduct among our partners in and outside the OSCE. A discussion on comprehensive parliamentary control of the security sector, including all armed, police, and paramilitary forces, and intelligence services was launched for the first time at the annual conference on the Code of Conduct, which took place at the Federal Foreign Office in Berlin in June 2016.

During 2016, the OSCE demonstrated its ability to cope with new threats and the challenges they pose for security policy. A good example is the ever broadening and accelerating spread of digital technology. On the one hand, this process creates enormous opportunities – and these should be grasped, not least because they also offer prospects for enhancing security and co-operation in Europe. At the same time, however, the OSCE participating States must respond to new potential threats and escalation scenarios arising from the digital revolution. The agreement reached on a further set of cyber-security confidence-building measures was another achievement of Germany's OSCE Chairmanship. In view of the attribution problems inherent to electronic communications, i.e., the challenge of attributing cyber-operations to real actors, confidence-building is of particularly great importance in this field. Measures aimed at promoting transparency and co-operation help to prevent or interrupt escalation spirals resulting from cyber-incidents. Germany has developed initiatives and provided impetus for the development of further confidence-building measures and more effective implementation of existing measures through numerous position papers. The Ministerial Council Decision adopted in Hamburg expressly supports this approach and gives clear instructions to continue the work on cyber-security in the multi-dimensional working group.

Conclusion

The field of OSCE-based conventional arms control and confidence-building measures was given a significant boost during the Germany's OSCE Chairmanship. Renewed dialogue between the OSCE participating States was put firmly on the agenda, particularly as regards conventional arms control. These positive developments must now be made permanent and concrete in close co-operation with future Chairmanships (Austria in 2017 and Italy in 2018). Sceptics will protest that the current security climate in the OSCE area is unfavourable to new initiatives. But this must be opposed by noting that conventional arms control and CSBMs were never instruments for fair weather conditions – on the contrary, they arise from the need for greater stability and predictability, i.e., for greater security, specifically in spells of turbulence. The outlook was stormy at the time of the OSCE Ministerial Council in Hamburg, but – continuing the metaphor – it proved possible to circumvent the shoals and, at least in some areas, to chart a course together to new destinations. This doubtlessly contributed to the overall positive and encouraging results of Germany's OSCE Chairmanship in 2016.

Reviving Conventional Arms Control in Europe

A Contribution to Military Stability in Times of Crisis

Introduction

In late September 2016, the Fifth Review Conference of the Treaty on Conventional Armed Forces in Europe (CFE Treaty) concluded in Vienna without tangible results. Russia, which suspended implementation of the treaty in 2007, did not participate. Several NATO states are also not parties to the treaty, including the Baltic republics. The conference provided renewed proof that the treaty is no longer making a meaningful contribution to guaranteeing military restraint and predictability in a Europe beset by new conflicts, a confrontational understanding of security, and the danger of military escalation. Against this background, in late August 2016, Germany's foreign minister, Frank-Walter Steinmeier, proposed engaging in a "structured dialogue" in order to explore how conventional arms control could be revitalized. The initiative is supported by 14 European states. So far, however, there is no clarity on the political preconditions, military substance, and timeframe for any new agreements. If this initiative is to have any credibility and lasting effect, now is the time to answer these questions.

Foreign Minister Steinmeier's proposal for the renewal of conventional arms control defined five areas where new arrangements need to be made:

1. Regional ceilings, minimum distances, and transparency measures (especially in militarily sensitive regions such as the Baltic);
2. New military capabilities and strategies (e.g. mobility, transport capabilities);
3. New weapon systems (e.g. drones);
4. Effective, rapidly deployable, and flexible verification capable of operating independently in times of crisis (e.g. carried out by the OSCE);
5. Applicability in disputed territories.¹

Note: This contribution was previously published as: Wolfgang Richter, *Neubelebung der konventionellen Rüstungskontrolle in Europa* [Reviving Conventional Arms Control in Europe], in: *SWP-Aktuell* 76/2016, available at: <https://www.swp-berlin.org/publikation/neubelebung-der-konventionellen-ruestungskontrolle-in-europa>.

- 1 Cf. Frank-Walter Steinmeier, *More security for everyone in Europe: A call for a re-launch of arms control*, originally published as: *Mit Rüstungskontrolle Vertrauen schaffen* [Creating Confidence with Arms Control], in: *Frankfurter Allgemeine Zeitung*, 26 August 2016, English and German versions available at: <http://www.osce.org/cio/261146>.

Precisely what military arrangements are needed in each area remains to be determined, as does the question of the political and legal framework under which any new arrangements should be concluded. Nonetheless, the proposal does mention the OSCE as a suitable forum for this kind of structured dialogue.

The list of topics for discussion indicates the political and military complexity involved in renewing conventional arms control. The proposals have met with great acceptance in the OSCE area, while also garnering criticism. In particular, the number of questions the proposal leaves open have been a cause of irritation and the nature of the overall approach urgently needs to be clarified.

Reactions in the OSCE Area

Despite the lack of clarity regarding the overall approach, the German initiative has since been taken up by an increasing number of “likeminded states”, who have at least shown interest in a dialogue on the future role and form of European arms control. They have formed an informal group that serves as a provisional format for dialogue. It includes European NATO states such as the Czech Republic, France, Italy, the Netherlands, Norway, Slovakia, and Spain; and neutral EU members and OSCE participating States including Austria, Finland, Switzerland, and Sweden. On 25 November 2016, 14 foreign ministers made a joint statement calling for a relaunch of conventional arms control. They called for the initiation of an exploratory structured dialogue with the OSCE playing the role of a central forum for dialogue.

Prior to this declaration, the US and the Baltic states had reacted cautiously to the German proposal. NATO experts expressed their concern that, for example, regional deployment limits could contradict the decisions of the July 2016 Warsaw Summit to strengthen the Alliance’s military forward presence. Moreover, they believe a resumption of talks between NATO and Russia on conventional arms control would represent a return to security co-operation and “business-as-usual”. In their opinion, this would contradict the Alliance’s position that relations with Russia can only be normalized once the Ukraine crisis has been resolved in line with international law.

The USA stresses the significance of the agreed principles that Russia continues to violate. As a result, the US believes there is no possibility of negotiating new arms control arrangements for the time being. Instead, the State Department takes the position that existing regimes should be maintained, the Vienna Document on Confidence- and Security-Building Measures (CSBM) modernized, and the Treaty on Open Skies strengthened.

In addition, the USA proposes a structured dialogue in the OSCE to discuss security concerns and threat perceptions in all three OSCE dimensions. It should also deal with developments in military doctrines, military postures,

and threatening military activities. The aim should be to improve existing instruments for conflict prevention, crisis management, and military transparency.

While Russia evaluates the causes of the European crisis differently than does the West and places most of the blame for the erosion of the CFE Treaty on the latter's shoulders, Moscow has nonetheless expressed its willingness to enter into dialogue over questions of international security and stability, as long as this is based on equality and the mutual recognition of each side's security interests. However, Moscow is not willing to take the lead in initiating such a process, but is rather waiting for the reaction of those NATO members that it considers have led arms control to its current impasse.

The CFE Treaty Is Ineffective

It should not surprise us that the discussion on the revival of conventional arms control should flare up again in the midst of the most serious crisis of European security since the end of the Cold War. In the crisis, it is easy to recognize the dangers arising not only from the inadequate transparency rules of the Vienna Document, but also from the lack of effective regulations to restrict offensive military capabilities.

The CFE Treaty corresponds neither politically nor militarily to the current security situation in Europe. Because its limitation regime reflects the goal, set in 1990, of creating a balance of power between the two military blocs that existed at the time, it has no stabilizing effect in the areas in Eastern Europe where tension is currently high. It is still focused on the disengagement of forces in Central Europe, with Germany at its centre.

The CFE Treaty treats Eastern Central Europe and Eastern Europe as a united group of states that has to comply with the same ceilings as the 16 NATO states of 1990. Now that NATO has enlarged to the East, this has the result that allies in Central Europe are maintaining a military balance with each other, while the bordering Russian oblast of Kaliningrad is assigned to a different CFE sub-region.

In the Black Sea area, the CFE definition of "flank region" has also lost its military relevance since Romania and Bulgaria joined the Alliance and the USA began to station troops there in 2007. However, according to CFE group logic, these two NATO states are supposed to co-ordinate with Russia in maintaining military balance with the "Western" flank states.

In the Baltic, where tensions between the NATO states and Russia have escalated particularly sharply since 2014, there are currently no arms control arrangements in place, since the Baltic states are not parties to the CFE Treaty, the attempt to adapt the CFE Treaty failed, and Russia suspended the treaty at the end of 2007 as a result.

In view of NATO's planned enlargement into Central Europe, which was put into effect in 1999, the States Parties to the CFE Treaty, with the support of all the remaining OSCE participating States, resolved to adapt the approach of the CFE Treaty. In order to dispel Russian concerns about the changes to the European security acquis of 1990, the NATO states first offered to conclude an adaptation agreement to the CFE Treaty, to deepen relations between NATO and Russia, and to strengthen the OSCE's role as the overarching framework.

These parameters for an adapted European security order were laid down in the NATO-Russia Founding Act of 1997 and the 1999 Istanbul OSCE Summit Document. With a view to the expected territorial ceilings of a future CFE adaptation agreement, in 1997, the NATO partners also made the assurance that no additional substantial combat forces would be stationed permanently. In 1999, Russia made the same assurances with respect to its oblasts of Kaliningrad and Pskov, which border Poland and the Baltic states. Russia also entered into a similar bilateral agreement with Norway covering northern Europe.

The Agreement on the Adaptation of the CFE Treaty (ACFE) signed by the 30 States Parties to the CFE Treaty in 1999 sought to replace the obsolete CFE bloc limits with national and territorial ceilings for each State Party. This also aimed to strengthen sub-regional stability in the fragmented landscape of Eastern Europe, where troop strengths were (and remain) lower than during the Cold War, but where peace and stability are also threatened by territorial disputes among the young states born from the collapse of the Soviet Union and Yugoslavia.

At the same time, the ACFE was opened to accession by additional states in its area of application, which stretches from the Atlantic to the Urals. This was intended as a means of supporting the goal of creating a space of common security without dividing lines and geopolitical zero-sum games, as the Charter for European Security postulates. The Charter was also adopted at the OSCE's Istanbul Summit in 1999.

However, the ACFE did not enter into force. Only four Eastern European states have ratified it, including Russia (2004). Under the leadership of the United States, the NATO states agreed only to ratify it once Russia has completely fulfilled its political commitments arising from the Istanbul CFE Final Act. These concerned the withdrawal of weapons and troops stationed in Georgia and Moldova.

Nevertheless there was disagreement even within the Alliance as to whether the Russian commitments also required the withdrawal of troops stationed in the conflict zones of Abkhazia and Transdniestria to support peacekeeping missions with the approval of the United Nations (UN) and the OSCE. The remnants of a Russian ammunition depot in Transdniestria, still

guarded by Russian troops, were an additional source of Western criticism. NATO did not even alter its position when Russia withdrew its regular troops out of Georgia and removed CFE-relevant weapons from Transdniestria (2000-2007).

Russia reacted in December 2007 by suspending the CFE Treaty. Further discussions on how the ACFE could be brought into effect were overshadowed by new geopolitical conflicts between Russia and the USA. At the centre of these were the controversies around the United States' cancellation of the Anti-Ballistic Missile (ABM) Treaty and deployment of strategic missile systems (since 2001), the 2003 Iraq War, Kosovan independence, and the decision taken by NATO in Bucharest in 2008 to offer Georgia and Ukraine the prospect of future membership. At the same time, Russia strengthened its support for the de facto regimes in the separatist regions of Georgia. The ACFE discussions were broken off during the Georgia War in 2008.

Political Obstacles in the Way of a New Beginning

The fact that even US President Barack Obama's Russian "reset" policy failed to create breakthroughs for conventional arms control in the years following 2009 shows just how high the political hurdles to revitalization are. The informal discussions on a restart held by a total of 36 CFE states and NATO members in 2010 and 2011 also ended without a result. Fundamental questions of international law and their linkage to the territorial conflicts in Georgia proved to be insurmountable obstacles. While Russia accepted the norm of "host nation consent" for the stationing of foreign troops, the USA insisted that Georgia provide explicit consent for the deployment of Russian troops in Abkhazia and South Ossetia, whose independence Russia had recognized.

There have been no further serious attempts to revive conventional arms control since 2011. Yet the erosion that had taken place over many years received little political recognition until the gaps in military stability and transparency became too obvious to ignore in the course of the Ukraine crisis and the new tension between NATO and Russia. Consequently, there appear to be good reasons to call for a revival of European arms control.

Yet this continues to be hindered by fundamental policy positions held not only by the Alliance but also by Russia. As long as the security policies of the USA and Russia are not radically reoriented, any attempt to return to the ACFE will be futile.

1. The USA continues to insist that it will only ratify ACFE after Russia has withdrawn its troops from the disputed territories in Georgia, Moldova, and Ukraine, including Crimea. The habit of linking arms control and territorial conflicts via discussion of principles (such as "host nation

- consent”) is long-established in the US Congress, and Congressional consent is required for a treaty to take effect.
2. The Baltic states fear that acceding to the ACFE would mean the negotiation of territorial ceilings that would limit their national and collective defence capabilities.
 3. States with territorial conflicts would continue to use their ability to block ratification as a means of asserting national aspirations. So far, they have been supported by the US and a number of East European states.
 4. The regional ACFE limits have been obsolete since NATO’s second eastward enlargement in 2004. Russia rejects above all the flank rules and the margins for temporary deployments above the territorial ceilings.

Against this background, it was realistic for the German initiative to avoid recommending a return to the ACFE. Moreover, efforts to restart the process are also burdened by existing political reservations.

The USA thus considers the renewal of conventional arms control not only to be unnecessary at this point in time, but also impossible and pointless as long as existing commitments are not fulfilled. The current approach of the US State Department, which concentrates on discussing principles, reflects long-standing political reservations. If the State Department continues to insist on linking the renewal of conventional arms control to a structured dialogue on the “third dimension” of the OSCE, i.e. to a futile debate on values, this will cause the initiative to fail before a detailed discussion on substantive military aspects of new agreements can commence.

The US proposal to begin by discussing threat perceptions, military doctrines, and threatening military activities in a structured dialogue appears to be based on tactical considerations. NATO’s decision to expand its presence in “front-line states” appears to have been based precisely on existing analyses of the threat situation. In the same context, the US and NATO proposed raising military transparency (of Russian troops) and “modernizing” the Vienna Document.

The argument that an initiative to revive conventional arms control is politically questionable because it would signal a return to security co-operation and “business-as-usual” with Russia appears equally insubstantial, since it is precisely the Vienna Document, which NATO seeks to modernize, that is the principal agreement for security co-operation in the OSCE area. It also stresses the significance of conventional arms control for common security.

If the principles of the European security order are to be reasserted, conventional arms control needs to play a central role. Only it can ensure military limitations and stability; transparency alone cannot guarantee this. This is why, for more than two decades, the OSCE and NATO have described the CFE Treaty as the “cornerstone of European security”. NATO’s

Warsaw Summit Communiqué also reiterated its commitment to conventional arms control.

The Political Process and Guiding Principles of a Restart

Whether one sees the return to agreed principles of strategic restraint as “security co-operation” or “confrontation management” is incidental. It is far more important to ask how realistic prospects are of establishing a consensus on the modernization of the Vienna Document without co-operating with Russia and re-establishing military stability by means of reciprocal arrangements.

Even if improving security co-operation in the NATO-Russia Council currently appears impossible, it is in the very nature of the OSCE to attempt to do so. For that reason, the political process should be brought under the OSCE umbrella as quickly as possible.² This corresponds to the interests of neutral states, which also wish to use the OSCE to protect their security.

On the other hand, it would be unwise to place responsibility for the initiative with the Forum for Security Co-operation (FSC) or the Permanent Council (PC), as there it is liable to become bogged down in routine. Experience tells us that an informal open-ended working group led by Germany or the 2017 Austrian Chairmanship could be a productive way forward.

The German and US proposals to initiate a structured dialogue are compatible, even if they still differ in their goals. An orderly dialogue on threat perceptions, military doctrines, and military postures is a necessary precondition for discussions of the political framework and military substance of potential agreements on the renewal of conventional arms control. However, the dialogue must aim at agreeing on a mandate for concrete negotiations. Whether this succeeds depends on the positions taken by the new US government in 2017, among other factors. Early discussions with the appropriate representatives of the incoming administration could create positive momentum.

With regard to the overall timeframe for the process, however, realism should be the watchword: Negotiations on a CFE mandate lasted two years, the treaty negotiations themselves a further 21 months. All this was able to build on 14 years of fruitless negotiations on “mutual and balanced force re-

2 At the OSCE Ministerial Council Meeting in Hamburg on 9 December 2016, the OSCE participating States underlined “the importance of conventional arms control and confidence- and security-building measures (CSBMs) for advancing comprehensive, co-operative and indivisible security in the OSCE area” and made a commitment to the “launching of a structured dialogue on the current and future challenges and risks to security in the OSCE area to foster a greater understanding on these issues that could serve as a common solid basis for a way forward.” Organization for Security and Co-operation in Europe, Ministerial Council, Hamburg 2016, *From Lisbon to Hamburg: Declaration on the Twentieth Anniversary of the OSCE Framework for Arms Control*, MC.DOC/4/16, 9 December 2016, at: <http://www.osce.org/cio/289496>.

ductions" (MBFR) in Central Europe. Above all, the political will for change had reached critical mass in both blocs in 1989. Today it appears that achieving similar momentum would be incomparably more difficult.

For new arrangements to be politically acceptable, they will need to be firmly rooted in the key principles of the "equal security of states" and the "reciprocity of regulations". The impression must be avoided that the initiative would condone restricting the ability of Alliance partners such as the Baltic states to defend themselves. The aim should rather be to prevent the build-up, in areas of potential conflict, of destabilizing troop concentrations that could be used to conduct cross-border offensive operations. It would be sensible to formulate principles and goals soon to avoid confusion while maintaining the momentum of the initiative.

It is crucial to avoid creating linkages of the kind that have blocked the process in the past before discussions on substantive rules began. It will certainly be necessary to talk about principles under international law and those of the OSCE. They cannot be compromised. On the other hand, it has to be clear that no progress will be possible on substantive issues as long as the states involved in specific conflicts insist on maintaining rigid positions.

Territorial Conflicts

Arms control cannot solve territorial conflicts. It can, however, create an atmosphere of security in which negotiations on political solutions can be carried out without military pressure, and political compromises become possible because local retreats do not have to be evaluated as strategic losses in a geopolitical zero-sum game.

In sub-regional territorial conflicts, the application of stabilizing arms control regulations and confidence- and security-building measures is particularly urgent in order to reduce the danger of escalation. On the whole, however, it will not be possible to include non-state actors in agreements between states, as this would elevate their political status. For that reason, "status-neutral" special agreements should be created for conflicts mediated by the OSCE or neutral third-parties.

Substantive Military Aspects of New Arms Control Agreements

Concepts for reviving conventional arms control will only ever convince if they offer stabilizing answers to the urgent questions of political and military reality in Europe. They need to be capable of dispelling threat perceptions and subjecting military postures and activities to verifiable restrictions. They could make an effective contribution to stability by limiting the military cap-

abilities available for surprise attacks and guaranteeing the long-term predictability of military options.

It thus appears obvious that limitations on weapons systems capable of offensive use in areas of high sensitivity for security policy should be combined with pan-European transparency and verification measures capable of withstanding crises. In addition, the capabilities of long-range weapons systems stationed far from conflict zones but capable of impacting them also have to be taken into account.

Regional Ceilings

Whether rapid or permanent, the concentration of forces capable of offensive action in border regions can have a highly destabilizing effect in zones of political tension. Both NATO – and particularly its Eastern European members – and Russia have raised security concerns relating to the stationing of troops and military activities by the other side in border areas. Reacting to these mutual threat perceptions with military counter-measures could elevate the risk of a regional arms race and increase the possibility of military escalation. To avoid this, it should be in the interests of both sides to limit the potential offensive capabilities of the perceived adversary.

Arms control regulations are one way of pursuing these interests. Minimum geographic distances, quantitative limitations, and intrusive transparency measures in militarily sensitive regions would be suitable means for addressing the danger of unexpected cross-border operations. However, they would only be militarily sensible and politically acceptable if they included reciprocal restrictions in militarily relevant areas on both sides of international frontiers.

Precisely in the Baltic and Black Sea areas, the agreement between NATO and Russia not to permanently station substantial additional combat forces could serve as a starting point for such considerations. This also explicitly applies to the western Russian border areas of Pskov and Kaliningrad. Temporarily exceeding the limits, e.g., in the course of exercises, should only be possible at a minimum distance from international frontiers, limited in extent, and subject to intrusive information and verification requirements.

Operational Capabilities

Stabilizing measures in zones of direct contact would also need to take account of geographical disparities. Since Russia is able to make use of internal lines of communication within a contiguous landmass, it can concentrate land forces in selected sub-regions near its borders such as the Baltic more rapidly than can NATO, as long as it is willing to leave gaps in other areas. For its part, NATO is increasing its mobility and rapid-reaction capability and has superior conventional force strength in Europe. As a result, NATO is in a

position to attack along the entire periphery of Eastern Europe using long-range airborne and sea-based weapons. The exposed position of the Kaliningrad exclave complicates Russian calculations. A short-term tactical advantage in a limited sub-region would have to be weighed up against the disastrous consequences of a global war.

In any case, a comprehensive approach to arms control would also have to take account of those operational capabilities that enable a military impact in potential conflict zones – and more generally – from further afield. In the course of “network-centric operations”, for instance, even small units can rapidly deploy highly precise, long-range weapon systems located outside the immediate zones of conflict.

The ability to quickly concentrate forces or strike at great distance depends on the range of the available weapon systems, the deployability of troops, and the availability of transport capacities. Any new approach to arms control should take account of these factors and subject them to pan-European transparency and verification rules. The accumulated effect of multinational co-operation also needs to be taken into account.

New Weapon Systems

The weapon categories defined in the CFE Treaty are still of great importance for carrying out offensive operations and combined arms operations. However, new weapons systems, such as combat drones, should also be taken into account. The definitions contained in the CFE Treaty are also technically capable of covering unmanned combat aircraft.

The ability to undertake network-centric operations depends critically on intelligence, positioning and communications satellites, modern sensors, precise guidance systems, and miniaturized computer technology. The constant modernization of such technology is in a permanent competition with efforts to disrupt and counter these new technologies.

It would be unrealistic to seek to restrict such systems and technologies using the means of conventional arms control for the following reasons: First, national defence these days depends critically on the efficient functioning of such systems; second, leading industrial states will not squander technological leads; third, it would largely be impossible to agree definitions that would cover the relevant software and to subject it to reliable verification; and, fourth, an overly ambitious approach would interfere with global negotiations. The last point is particularly true with regard to objects of negotiation that come under strategic nuclear arms control and the prevention of an arms race in outer space.

A realistic approach to the renewal of conventional arms control in Europe should therefore rather focus on conventional weapon systems capable of enabling a military impact in areas of high tension in Europe.

Transparency and Verification

New arms control agreements can only increase political stability if the states have complete faith in their verifiability. Consequently, meaningful information on military structures, weapon holdings, plans and activities and their verification is of the utmost importance. Verification mechanisms need to be robust and flexible if they are to generate reliable information on the military situation, enable early warning, and contribute to de-escalation in cases of suspected unusual military activities, during large-scale exercises, and in crises.

Recommendations

1. In order to maintain the momentum of the German initiative, the Federal Government should promote a structured dialogue on the security situation in Europe as well as measures for de-escalation. This should be undertaken in the framework of an informal OSCE working group. Its aim should be to achieve a mandate for negotiations on renewing conventional arms control arrangements.
2. In order to ensure that the dialogue can commence soon, efforts should begin as soon as possible to co-ordinate between the 2017 Austrian OSCE Chairmanship, the incoming US administration, Russia, and other key states. The group of likeminded states could drive the process forward politically as well as providing substantive inspiration.
3. To maintain the credibility of the initiative, a clear vision of its goals, the political framework, and the military substance of the new arrangements should be developed as quickly as possible. This could also improve the chances of reaching consensus on the modernization of the Vienna Document.
4. In view of the risk of escalation associated with accidental hazardous incidents, there is an urgent need to encourage the partners to undertake voluntary and short-term confidence- and security-building measures as part of regional risk reduction. These require the political will of the affected states but do not need all OSCE States to consent to the modernization of the Vienna Document.

The OSCE's Role in Conflict Management: What Happened to Co-operative Security?

Introduction

The Organization for Security and Co-operation in Europe (OSCE) has recently passed the 40th anniversary of the signing of the Helsinki Final Act by 35 Heads of State or Government in “Europe” extending “from Vancouver to Vladivostok the long way around”. The Final Act represented a major step in East-West détente over the next 15 years by reducing security dilemmas between the rival NATO and Warsaw Pact alliances and increasing transparency and interaction across the Cold War divide, contributing to the end of the Cold War. Beginning in 1990, the then Conference on Security and Co-operation in Europe (CSCE) put forward bold plans for creating a new framework based upon the concept of co-operative security. Underlying this concept is the assumption that security is fundamentally indivisible, and that any breach of the basic norms of security must be met by a collective response of the entire community of states.¹ Instead of basing security on a balance of power among competing alliances, the fundamental principle of a co-operative security regime is that all states should respect the regime’s norms, principles, and decision-rules and work together to respond to any violations of those norms.

For most of the first decade after the Cold War, the CSCE/OSCE constituted the embodiment of this security regime and attempted with modest success to implement it throughout the broad geographical region that it covered. Many observers, especially in the East, were disappointed that it did not supplant entirely the Western Cold War institutions, especially NATO and the European Union. As the Warsaw Treaty Organization and Comecon collapsed while Western institutions expanded eastward, the idea of a single “undivided Europe”, a “common European home”, slipped away. In the first 15 years of the 21st century, new divisions have appeared in Europe, security has decreased, and co-operation in economic, environmental, and humanitarian activities has declined. As old institutions have enlarged and new ones have appeared, the OSCE remains the only institution with universal participation and a mandate to promote co-operative security, but the consensus that enabled it to institutionalize in the years immediately after the end of the Cold War has largely dissipated.

1 Cf. James E. Goodby, *Europe Undivided: The New Logic of Peace in U.S.-Russian Relations*, Washington, DC, 1998, Chapter 7, pp. 159-179.

In 2005, on the 30th anniversary of the signing of the Helsinki Final Act, a Panel of Eminent Persons from all OSCE regions produced a consensus report seeking to reinvigorate the Organization. However, the report mostly lacked specific recommendations, and the few concrete proposals have seldom been implemented.² Over the ensuing ten years, several major crises have significantly undermined the normative core of co-operative security, including the Russian intervention in fighting in the South Ossetia region of Georgia in 2008 and in Crimea and the Donbas regions of Ukraine since 2014. So-called “frozen” conflicts in Georgia (Abkhazia and South Ossetia), Moldova (Transdniestria), and Azerbaijan (Nagorno-Karabakh) have remained unresolved and have even “unfrozen” into outright violent conflict in several instances. So in late 2014, the Swiss Chairmanship commissioned another Eminent Persons’ Report, which resulted in both an Interim Report concentrating on the OSCE’s response to the crisis in Ukraine and a Final Report³ issued in November 2015. In contrast to the bland consensus document produced ten years before, this report shows that even that consensus has evaporated, as the report consists mostly of three alternative narratives: a view from the West (presumably most states belonging to NATO and/or the European Union), a view from Moscow (apparently acting alone), and a view from “States in-between” (written by a Georgian scholar and seemingly representing the views of his own country and Ukraine).⁴ This report thus dramatically underlines the divisions that had occurred within the OSCE by the time of its 40th anniversary. Although there was a unanimous consensus that Europe in 2015 faces “grave dangers,”⁵ and awareness that “Europe today is far from the co-operative order imagined in the early 1990s when, in the Charter of Paris, its leaders declared an end to ‘the era of confrontation and division’ and the arrival of ‘a new era of democracy peace and unity in Europe,’”⁶ there were great differences about the causes and what needs to be

2 An alternative version, written by academic experts from various regions of the OSCE and co-ordinated by the Centre for OSCE research (CORE) at the University of Hamburg, prepared a somewhat more detailed and concrete report, although few of its ideas were adopted in practice. Cf. *Managing Change in Europe – Evaluating the OSCE and Its Future Role: Competencies, Capabilities, and Missions*, compiled by Wolfgang Zellner in consultation with Alyson Bales, Victor-Yves Ghebali, Terrence Hopmann, Andrei Zagorski, and experts at the Centre for OSCE Research, Hamburg, CORE Working Paper 13, Hamburg 2005, reprinted in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2005*, Baden-Baden 2006, pp. 389-430.

3 *Back to Diplomacy. Final Report and Recommendations of the Panel of Eminent Persons on European Security as a Common Project*, sine loco, November 2015, at: <http://www.osce.org/networks/205846>; also reprinted in: Institute for Peace Research and Security Policy at the University of Hamburg, IFSH, *OSCE Yearbook 2015*, Baden-Baden 2016, pp. 377-408.

4 It is not clear how the views of some of Europe’s neutral and non-aligned states were represented (though most likely associated with the Western view), nor of other states of the Southern Caucasus (Azerbaijan and Armenia), nor of the participating States in Central Asia and Mongolia (although a parliamentarian from Kazakhstan was also represented on the panel).

5 Cf. *Back to Diplomacy*, cited above (Note 3), p. 5 (p. 379).

6 *Ibid.*, p. 11 (p. 383).

done to overcome the “mutual distrust” that replaced the spirit of co-operation.

This contribution reflects on the Eminent Persons’ reports and their implications for co-operative security. I ask how the idea of co-operative security in Europe has faded by examining the historical background to the three “narratives”, analyzing how the same events could have been perceived and constructed in such different ways. My analysis differs from many of the standard “realist” views about co-operative security, which mostly dismiss it as an illusion. Realists tend to argue that the laws of power politics, identified in the past by Thucydides and Hobbes, are largely immutable and thus work almost like objective laws of physics. Some, following the arguments of Hans Morgenthau,⁷ attribute this to the belief that human nature is inherently competitive and thus prone to conflict and violence. Other realists, largely following the approach of Kenneth Waltz,⁸ argue that this stems from the permanent anarchical structure of the international system, in which states must seek security in a conflict-prone world in order to avoid being overtaken by more powerful states. Both view the behaviour of states in international relations as determined by objective and unchangeable laws.

Yet it is obvious that there has been significant variation over time and space in conflict and co-operation, war and peace, and these variations throughout history cannot be explained by constant laws, whether based on human nature or international structures. Thus many scholars of international relations, drawing on liberal institutionalist and/or constructivist theories, focus instead on the role of institutions and human beliefs and behaviour in affecting the prevalence of conflict or co-operation at any given time or place. As Alexander Wendt has shown in his social constructivist treatise on international relations, whether states construct their beliefs about international relations in Hobbesian, Lockian, or Kantian terms will have a significant impact on the way states and individuals behave.⁹ In short, agency – the impact of human individuals, their beliefs and behaviours – largely determines what kind of international system will be constructed and whether this will lead to a world of competitive or co-operative security. This contribution attempts to show how these alternative narratives have affected the post-Cold War Euroatlantic system as well as the institutional role of the OSCE in that system. To paraphrase Wendt, I argue that the OSCE is what the participating States “make of it”.¹⁰

7 Cf. Hans Morgenthau, *Politics Among Nations*, New York 1967.

8 Cf. Kenneth Waltz, *The Theory of International Politics*, Reading, MA, 1979.

9 Cf. Alexander Wendt, *The Social Construction of International Relations*, Cambridge 1999.

10 Alexander Wendt, Anarchy is what states make of it: the social construction of power politics, in: *International Organization* 2/1992, pp. 391–425.

The Helsinki Final Act, signed by the Heads of State or Government of 35 countries on 1 August 1975, first and foremost contains the “Decalogue”,¹¹ ten principles that created the normative foundation under which the CSCE and the OSCE have operated ever since. These norms have shown a remarkable capacity to influence the way in which international relations were re-structured after the end of the Cold War.

However, several of these principles have collided in their implementation over the past 40 years, and participating States have sometimes tried to create a hierarchy among them, even though they were conceived as carrying equal weight. This was most notable immediately after 1975 with respect to the sixth principle, calling for non-intervention in the internal affairs of states, and the seventh principle, affirming human rights and fundamental freedoms for all citizens within the participating States. The potential conflict between these two principles became a serious topic of debate throughout the first two CSCE Follow-up Meetings held in Belgrade and Madrid. Subsequent OSCE documents have asserted that the protection of human and minority rights does not constitute inappropriate interference in the internal affairs of states, but many states nonetheless oppose outside engagement on these issues as an unjustifiable intrusion in their domestic affairs. Some newly democratizing states have focused almost exclusively on “majority rule” as the foundational principle of democratic governance, thereby all too frequently leading to discrimination against national, religious, linguistic, and ethnic minorities, and to the denial of basic human rights such as freedom of speech and of the press. Although OSCE institutions have tried valiantly to support human rights and the rights of persons belonging to minorities, these efforts have often been resisted by some participating States on the grounds that they constitute undue interference in their internal affairs.

After the end of the Cold War, a second major source of conflict emerged within the OSCE region involving a clash in the interpretation of the fourth principle supporting the territorial integrity of internationally recognized states and the eighth principle affirming the right of “self-determination of peoples”. This latter provision has been cited by many secessionist movements throughout the OSCE region, especially in previously recognized autonomous regions, to justify their efforts to achieve greater autonomy or in many cases outright independence. By contrast, most national governments have interpreted these secessionist movements as undermining the territorial integrity of their states. This was further reinforced by the decisions taken by the international community, including the CSCE, to recognize as independ-

11 Cf. Final Act of Helsinki. Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 141-217, here: pp. 143-151; also available at: <http://www.osce.org/mc/39501> (pp. 3-10).

ent states and admit into international organizations all of the 15 former “union republics” of the Soviet Union and eventually all six republics of Yugoslavia within their existing boundaries, without recognizing autonomous regions within them. Many political leaders believed that further disintegration would lead to the creation of numerous micro states that in many cases would simply create new minorities within smaller entities. However, autonomy within the larger state too often failed to protect large ethno-national minorities, so claims for regional self-determination have challenged the principle of respect for the territorial integrity of existing states ever since.

In many participating states, these secessionist issues have been resolved peacefully through negotiation and referendums, including among the most prominent examples Quebec in Canada, Scotland in the United Kingdom, Tatarstan within the Russian Federation, Catalonia within Spain, and Slovakia’s separation from Czechoslovakia. However, most of the violent conflicts that emerged since the breakup of the Soviet Union and Yugoslavia – Chechnya in Russia, Nagorno-Karabakh in Azerbaijan, Abkhazia and South Ossetia in Georgia, Transdniestria in Moldova, Kosovo in Serbia, and Crimea within Ukraine – have reflected these competing interpretations of the principles of self-determination and territorial integrity contained within the Helsinki Decalogue. Among the most delicate issues confronted by the OSCE are those involving the effort to reconcile these seemingly competing principles.

However, with the disappearance of the East-West confrontation, a consensus gradually emerged around the belief that, when principles – including those in the Decalogue – have been freely accepted by participating States, this effectively gives other participating States certain rights of engagement in order to uphold those norms. Therefore, on matters ranging from intrusive inspection to verify compliance with military confidence-building measures and arms-control agreements, to provisions for human rights and rights of persons belonging to minority groups, the OSCE has insisted on “transparency” and on the right of the “international community” as represented by a consensus within the OSCE, to intervene in the internal affairs of participating States to enforce principles to which they have freely subscribed. In theory, if not always in practice, OSCE norms have weakened the absolute nature of state sovereignty to a far greater degree than was envisaged at the time the Helsinki Final Act was signed in 1975.

With the fall of the Berlin Wall on 9 November 1989, the CSCE began a rapid process of transformation to respond to the new post-Cold War security situation in Europe. Suddenly the possibility of creating a genuine system of “co-operative security” on the European continent appeared to be feasible. After the Cold War, the OSCE’s vision changed from a regime based on mutual confidence-building and transparency between two competing blocs, with a neutral/non-aligned group in between, to include the possibility of a co-operative security regime covering the entire European and North American region “from Vancouver to Vladivostok”. This view was most clearly ar-

tulated by the new leaderships that emerged in Central Europe following the collapse of communism. In January 1990, Polish Prime Minister Tadeusz Mazowiecki proposed creating a Council of European Co-operation to co-ordinate policy in the entire CSCE region. Shortly thereafter, Czech Foreign Minister Jiří Dienstbier proposed replacing the existing system of competing alliances with a collective security system based on the CSCE. In the Soviet Union, Foreign Minister Eduard Shevardnadze called for the creation of a new order based on collective security and built around the CSCE, while Mikhail Gorbachev referred to the CSCE as the foundation for his conception of a “Common European Home”.

This enthusiasm for the CSCE assuming a collective security role, however, was not fully shared in the West. The United States responded cautiously, fearing competition with NATO, while several Western European countries preferred to focus on the enlargement of the European Union as the foundation for a post-Cold War European security structure. At NATO’s summit in London in July 1990, however, the Alliance’s heads of state recognized explicitly that the new security situation in Europe would require the CSCE to develop a permanent institutional structure to replace the series of conferences and the follow-up meetings that had constituted the only institutionalized format for the CSCE prior to 1990.¹²

The CSCE produced two major documents in the first year after the end of the Cold War that fundamentally changed the normative and institutional structure of European security. The first was a report of an expert meeting held in Copenhagen in June 1990 on the human dimension of security, which attempted to apply the essential features of Western democratic practices to the entire continent. The second was the “Charter of Paris for a New Europe”, signed at a Summit meeting held on 19-21 November 1990. In its preamble, it announced the opening of a new era for European security, based on a reaffirmation of the Helsinki Decalogue:

Europe is liberating itself from the legacy of the past. The courage of men and women, the strength of the will of the peoples and the power of the *ideas* of the Helsinki Final Act have opened a new era of democracy, peace and unity in Europe.¹³

In addition to reaffirming the *acquis* of the CSCE from the Helsinki Final Act through the various follow-up conferences and expert meetings, the Charter of Paris began the formal institutionalization of the CSCE, and by 1992 the CSCE had become a fully institutionalized co-operative security organization. It adopted a wide range of normative principles to undergird the concept

12 Cf. Stefan Lehne, *The CSCE in the 1990s: Common European House or Potemkin Village?* Vienna 1991, p. 10.

13 Charter of Paris for a New Europe, Paris, 21 November 1990, in: Bloed (ed.), cited above (Note 11), pp. 537-566, here: p. 537 (emphasis added), also available at: <http://www.osce.org/node/39516>, p. 3.

of co-operative security throughout the CSCE region. It also created a multifaceted and comprehensive set of institutions, which, given sufficient resources and political support, should have been able to implement those principles throughout the region. Although it got a late start after the “Rubicon” of violence had been crossed in a number of conflict zones, it developed a framework to prevent the future outbreak and escalation of violent conflicts, to manage those conflicts that had already occurred, and to promote negotiations to try to resolve the many conflicts that appeared within the region. It experienced some notable success, especially in the role of the OSCE missions and the High Commissioner on National Minorities in conflict prevention in Ukraine (Crimea), Macedonia, and Albania, and in the missions in support of the Dayton Peace Agreement in Bosnia and Herzegovina and of the UN missions in Croatia and Kosovo. At the same time, in spite of great effort, it has so far failed to bring a resolution to the secessionist conflicts in Nagorno-Karabakh, South Ossetia, and Transdniestria, and it has seen its efforts at peace-building in Georgia disrupted by war in 2008, and the successful resolution of the Crimean autonomy agreement of 1996 violently reversed in 2014. Indeed, these latter two events clearly represent the most serious violations of the norms of the Helsinki Final Act since its signature in 1975, including the final decade and a half of the Cold War.

So, what happened? Why did this co-operative security regime that had so much potential to usher in a new era of democracy and peace in Europe lose momentum and fall back, not into a repeat of the Cold War, but to a realist world of competing blocs and power relationships? Is this proof of the inevitability of realist predictions that, whether as a consequence of human nature or of an anarchic structure of the international system, conflict in a world of sovereign states is inevitable and co-operative security regimes are illusory? Or does this reflect the manner in which the security beliefs of the OSCE participating States have been constructed since the beginning of the 21st century, as reflected in the alternative narratives contained in the 2015 Report of the Panel of Eminent Persons? And, if the latter, can these divergent narratives be bridged in order to construct a shared narrative about the requirements for an effective and enduring co-operative security regime? It is to these questions that I will turn in the remainder of this contribution.

Alternative Narratives and Scenarios for European Security after the Cold War

The early post-Cold War years generally witnessed substantial co-operation across a wide range of issues within the CSCE framework. However, the Charter of Paris also acknowledged indirectly the potential tensions among the Helsinki norms. Specifically, it reaffirmed that “respect for and effective exercise of human rights” are “indispensable” in order to “strengthen peace

and security among our States". It reaffirmed the "right to self-determination", while placing it in the context of "the relevant norms of international law, including those relating to territorial integrity of States". But it also introduced the seeds of another tension that lies at the heart of many of the divergent narratives contained in the 2015 Report of the OSCE Panel of Eminent Persons. In particular, it noted the end "of the division of Europe" and the indivisibility of security in which "the security of every participating State is inseparably linked to that of the all the others". This implied that an era in which peace was maintained through a balance of power among competing alliances had come to an end, lending support to the idea that the CSCE system of co-operative security would replace existing alliances, or overarch any that would remain.

With the dissolution of the Warsaw Pact, many Russians initially came to believe that NATO, too, would pass away and that the CSCE would become the foundation for a new Europe, free and undivided. Indeed, this idea was echoed by many in the West, including most prominently Egon Bahr, an elder statesman and foreign policy expert within the West German Social Democratic Party and one of the architects of Germany's *Ostpolitik*, who proposed that the CSCE be converted into a true supranational institution with integrated military forces, thereby constituting a true collective security organization.¹⁴ In the United States, President George H.W. Bush declared the advent of a "new world order". However, the very same paragraph in the Charter of Paris also contained the qualification that all participating States would fully respect "each other's freedom of choice" with regard to affiliation with specific regional or international security institutions. In a speech in Berlin in April 1990, US Secretary of State James Baker argued that the CSCE and NATO were mutually complementary institutions, making clear the US position that the CSCE should not be considered a substitute for the continued existence of NATO. Indeed, most NATO member states concluded that the concept of "freedom of choice" implied that no state could veto the entry of any other sovereign state into an alliance such as NATO or an economic community such as the European Union. Russia reacted by creating the Commonwealth of Independent States (CIS), integrating many former Soviet republics into their own co-operative entity. The result was that the goal of a Europe "whole and undivided" began to slip away, and, with the outbreak of numerous conflicts throughout the disintegrating regions of the Soviet Union and Yugoslavia, the CSCE began to focus more on conflict management rather than on building a pan-European co-operative security institution.

Finally, the Charter of Paris called for the creation of a set of new mechanisms for the "peaceful settlement of disputes, including mandatory third-party involvement". A meeting in Valletta in early 1991 created a mechanism

14 Cf. Jonathan Dean, *Ending Europe's Wars: The Continuing Search for Peace and Security*, New York 1994, p. 213.

for compulsory mediation of inter-state disputes when called upon by at least ten participating States. However, at a foreign ministers meeting in Berlin in June 1991, Soviet Foreign Minister Alexander Bessmertnykh added qualifying language, insisting that such a mechanism must not interfere in the internal affairs of states.¹⁵ Therefore, once again, the principle of the territorial integrity of states trumped, in Soviet and later Russian policy, both the principle of self-determination of peoples and mandatory third-party dispute resolution.

These potential contradictions, however, remained largely below the surface in the early post-Cold War years. A research project co-ordinated by this author with colleagues at Brown University's Watson Institute for International Studies met with many Russian think tanks, academic institutions, senior government officials, and members of the Russian State Duma, culminating in a conference held at the Moscow State Institute of International Relations (MGIMO) in 1996, organized on the Russian side by Andrei Zagorski. At that time, when the immediate consequences of the breakup of the Soviet Union had become relatively clear, the Russian specialists on security policy responded to four possible future scenarios for Russian relations with former Soviet republics ten years in the future, in terms of both their desirability and likelihood: 1. integration under Russian domination; 2. co-operative integration; 3. unregulated disintegration, and 4. co-operative independence. The widespread consensus was that the most desirable scenario was based on co-operative integration, in which Russia would create within its zone of influence a system of co-operative relations similar to the one evolving in Western Europe. However, most perceived that the most likely outcome by 2006 was unregulated disintegration, largely because they did not believe that Russia had at that time the capacity to manage the centrifugal forces occurring within post-Soviet space. Most Russian specialists expressed "support for increasing the security role in this region of global and regional multilateral institutions such as the United Nations and the OSCE". Most also preferred to see the burden for maintaining security in the post-Soviet region more widely shared as an alternative to "unilateral Russian peacekeeping throughout the CIS region".¹⁶

The major security threat as perceived by virtually all Russian experts in 1996 emanated from internal problems within the Russian Federation itself, including economic, political, and security issues; external threats generally paled in comparison. The threat of Islamic fundamentalism, both within the southern regions of the Russian Federation and beyond its southern borders, was cited by some Russian experts. At the same time, they noted the possibility that their leaders, for political reasons, might "exaggerate these threats

15 Cf. *ibid.*, p. 215.

16 P. Terrence Hopmann/Stephen D. Shenfield/Dominique Arel, *Integration and Disintegration in the Former Soviet Union: Implications for Regional and Global Security*, Thomas J. Watson Jr. Institute for International Studies, Brown University, Occasional Paper no. 30, 1997, p. 59.

and resort to heavy-handed military means in an attempt to assert control”.¹⁷ China was occasionally mentioned as a possible external threat in the medium-term to long-term future, but the West generally was not viewed as threatening with three significant caveats:

Although the majority of Russian specialists disapprove of North Atlantic Treaty Organization (NATO) expansion, most do not foresee that this change in the European security architecture constitutes a threat to Russia’s security, as long as three conditions are met: 1) nuclear weapons should not be deployed in former Warsaw Pact countries; 2) Russia should remain genuinely involved in bilateral consultative bodies with the Western alliance; and 3) former Soviet republics, including the Baltic states, must not be invited to join NATO separately.¹⁸

In various ways, it was the disregard for these three premises that has contributed significantly to the divergent narratives in the Report of the Panel of Eminent Persons between Russian views of the European security architecture, and especially the role of the OSCE, and those of Western states and the states “in-between”.

First, although nuclear weapons have not been deployed in the former Warsaw Pact countries, deployment of strategic missile defences, first planned for Poland and later shifted to Romania, constitutes a strategic system related to nuclear issues. Although the United States insists that this is intended to counter Iranian ballistic missiles with nuclear warheads (which do not exist yet and are unlikely to exist for quite some time after the signature of the Joint Comprehensive Plan of Action, JCPOA, with Iran), their location has consistently been perceived as threatening by Russia. As the “View from Moscow” asserts, this threat is reinforced by the unilateral withdrawal of the US from the ABM Treaty of 1972, the cornerstone of the regime of strategic nuclear arms control.¹⁹

Second, Russians have come to perceive their engagement in the central institution of NATO’s co-operation with Russia, the NATO-Russia Council established by the NATO-Russia Founding Act, as “sugar coating for the bitter pill of enlargement”.²⁰ This contrasts notably with the “View from the West,” which emphasizes Russia’s invitation to join the G7 and the NATO-Russia Council. Nonetheless, Russia had been assured many times by NATO that the Alliance would never engage in military activity “out of area”, except in the case of a direct attack on a NATO member state as called for by Article 5 of the NATO Treaty, without political authorization from either the UN Security Council or the OSCE. Of course, Russia effectively holds a veto in

17 Ibid., p. 13.

18 Ibid., p. 14.

19 Cf. *Back to Diplomacy*, cited above (Note 3), pp. 8 and 25 (pp. 382 and 396).

20 Ibid., pp. 8 and 24 (pp. 381 and 395).

both institutions. Yet, that is essentially what happened in the 1999 NATO campaign against Serbia during the Kosovo War. Although Russia participated in the Rambouillet talks to try to find a negotiated solution to the Kosovo crisis, Moscow opposed any resolution that would have authorized direct use of force by NATO against Serbia. The main cause for NATO intervention in Kosovo in 1999 was the threat to Kosovar Albanian citizens from Serbian police and military units on the ground, especially the slaughter of Kosovar civilians, to which the bombardment of Belgrade and other major Serbian targets seemed largely irrelevant. The most effective way to protect vulnerable civilians is to put “boots on the ground” capable of providing local protection, an operation that might have received UN or OSCE support under the (not yet formally adopted) principle of the “responsibility to protect”. Yet, after the debacle of the 1993 Battle of Mogadishu, and until after the 9/11 terrorist attack on the US, it was politically impossible for the US to introduce ground troops to protect Kosovo’s civilians, thereby leaving air bombardments as the residual military option. However, Russians viewed this bombardment, especially the striking of civilian targets in Belgrade, as, in the words of “the View from Moscow”, an “atrocious”.²¹ Although there are many significant differences between the two cases, for Russian leaders the bombing of Serbia constituted a precedent for their action in Crimea in 2014.

Russia has been ambivalent about the principle of self-determination, at times appearing to support it when it was consistent with Russian interests and at other times opposing it. Russia certainly used violent force to oppose Chechen “self-determination” in the two wars in the 1990s, when Chechnya threatened to secede from the Russian Federation, of which it was one of 22 republics. At the same time, the government of Boris Yeltsin negotiated a relationship with Tatarstan, a republic within the Russian Federation, that granted it greater autonomy than most other republics within the federation.²² Russia has overtly supported the right of self-determination for Abkhazia and South Ossetia within Georgia and of Transdniestria within Moldova, while remaining ambivalent and at times taking contradictory positions with regard to the self-determination of Nagorno-Karabakh Armenians within Azerbaijan. However, since communist ideology has largely been replaced by hyper-nationalism, Russia’s greatest concerns have focused on the status of ethnic Russians living outside the Russian Federation, especially in the Baltic states and in Ukraine. At the same time, Moscow has denounced the right to self-determination of ethnic Albanians living outside Albania in Serbia (Kosovo) and in Macedonia. In short, Russian leaders have managed to straddle the tension between the “territorial integrity of states” and the “right of self-determination of peoples” largely according to the political position of the

21 Ibid., p. 25 (p. 396).

22 Cf. P. Terrence Hopmann, *Disintegrating States: Separating without Violence*, in: I. William Zartman (ed.), *Preventive Negotiation: Avoiding Conflict Escalation*, Carnegie Commission on Preventing Deadly Conflict, Lanham, MD, 2001, pp. 113-164.

parties caught in the midst of these cross-pressures, although they are not alone in prioritizing one Helsinki principle over another on grounds of national self-interest.

Third, and likely of greatest importance, was the eastward enlargement of NATO. The dilemma derives from the obvious desire of the former Warsaw Pact states and at least some former Soviet republics to “choose” to enter NATO, consistent with the norm established by the Charter of Paris. At the same time, the eastward expansion of the Alliance has undoubtedly contributed to a new division of Europe, and indeed a division that largely isolates Russia, contradicting another norm from the Charter of Paris affirming the indivisibility of security within the “new Europe”. Concern about this lay behind the 2008 proposals by Russian President Dmitry Medvedev to create new security institutions to address the increasingly clear cut lines of division forming through post-Cold War Europe. Although vague in its details about how the new institutions might differ from, much less improve upon existing institutions, the proposal did signal Russian concerns about the developing security structures in Europe in the early 21st century.

This eastward drive by NATO and the EU has also compounded the issue regarding the status of persons identifying as “Russian” living outside of the Russian Federation. This concern was at the core of the conflict involving the status of Crimea within Ukraine that smouldered between 1992 and 1996, at which time it was largely peacefully resolved through an autonomy agreement brokered by the OSCE’s High Commissioner on National Minorities (HCNM), Max van der Stoep.²³ However, it also became a major point of contention in both Latvia and Estonia, where the CSCE created Missions of Long Duration largely to monitor and assist the significant Russian-speaking minorities within these two Baltic republics to secure rights to citizenship and full participation in the democratic process. Although some steps were taken, mostly thanks to pressure from the CSCE/OSCE Missions and the HCNM, Russia has never been satisfied that ethnic Russians have attained full political rights in either country. Nonetheless, over their objections, the OSCE Missions in the two countries were closed (although the HCNM remains active there) and both countries were subsequently admitted into NATO and the European Union. In the West, the Baltic countries are largely perceived as European states that were illegally seized by Russia in the run-up to World War II, but in Russian eyes these were nonetheless three of the 15 former Soviet republics bordering on Russia that joined NATO and the EU, moving the line of division in Europe directly onto Russia’s north-western borders. And the possibility that even Georgia and/or Ukraine might enter NATO or closer association with the EU would, in Russian perceptions, leave it sur-

23 Cf. P. Terrence Hopmann, The OSCE’s Contrasting Roles in Managing the Ukraine/Crimea Crises in 1992-96 and 2014-15, in: Institute for Peace Research and Security Policy at the University of Hamburg /IFSH (ed.), *OSCE Yearbook 2015*, Baden-Baden 2016, pp. 277-293.

rounded by potentially competitive or even hostile alliances. This does not, of course, justify Russian threats to intervene militarily in any former Soviet republics, including the Baltic states, but it does explain in part Moscow's dissatisfaction with the way in which the security situation has evolved in Russia's "near abroad". And it clearly does not justify Moscow's rapid and stealthy military intervention in Crimea and the Donbas regions of Ukraine in 2014, creating a *fait accompli* rather than pursuing diplomatic efforts within the OSCE to respond to the legitimate concerns of ethnic Russians in Crimea and elsewhere in Ukraine.

However, all three of the caveats identified in our 1996 research in Russia, at a time when co-operative security was still viewed by Russian security specialists as the most favourable option for the following decade, were perceived to some extent by Russians as being violated since 1999. While Western participating States perceived their behaviour to be consistent with OSCE norms, Russian political elites saw these moves as violating OSCE standards. A largely unintended consequence was that these actions by the West contributed to the reappearance of hard-core realist thinking among Russian foreign policy elites, which in turn undermined any confidence that Russians might have held in the principles of co-operative security or the institution that most embodies those principles, the OSCE.

Russian realist ideas and behaviour in turn reinforced the tendency of neo-realists in many other OSCE participating States to privilege realist principles of collective defence through military alliances over the liberal institutionalist principles of co-operative security. Russian reactions to NATO's eastward enlargement, in particular, stimulated serious threat perceptions throughout Central Europe, making these countries more anxious than ever to join NATO. Yet, in a classic spiral resulting from a mutual "security dilemma", these countries' efforts to shore up their own security in the face of a perceived Russian threat only made Russians feel more isolated and insecure. Russia's countermeasures to offset NATO's enlargement then created even greater perceptions of threat in the newest NATO member states, further reinforcing the cycle of insecurity that has come to replace "common" or "co-operative security" in Europe. This issue has become especially acute in the cases of Georgia and Ukraine, neither of which has yet been accepted into full NATO membership, although both have expressed a desire to join the Alliance. The view expressed in the "Perspective from Tbilisi" in the Report of the Panel of Eminent Persons reflects this threat perception by "the States in-between":

Russia has never adjusted to the idea of the demise of the Soviet Union and throughout the last two decades has attempted to reconstruct the lost empire, first through the creation of the Commonwealth of Independent

States (CIS), then creating the CSTO and finally launching the idea of the Eurasian Economic Union.²⁴

The Georgian author notes that Russia has supported the independence of breakaway regions in Georgia, Azerbaijan, Moldova, and Ukraine, and that no existing European security institution has the capacity to respond to these violations of international norms. Even more ominously, he raises the old fear that a deal might be struck between Russia and the West at the expense of the states “in-between” that will eventually lead to their loss of independence.²⁵ It appears likely that these concerns will multiply following the election of Donald Trump as president of the United States, given the strong support for his election from Russia's President Putin and other senior Russian politicians as well as Trump's frequently expressed support for Putin and his selection for several key positions in his administration of individuals known to have close financial and other ties to Russia. Ironically, however, even though Ukraine and Georgia's bids for NATO membership were indefinitely postponed at the NATO Bucharest Summit in 2008, Russia's military action in Georgia in August 2008 and even more importantly in Ukraine since 2014 have had the paradoxical consequence of making their membership once again a topic of discussion in Brussels and in NATO capitals. Consistent with the classic pattern of the “security dilemma”, Russia's actions in response to the perceived threat from NATO may eventually promote the outcome they claim to fear the most, namely the further expansion of NATO and the EU directly on their southern and western borders.

Conclusion

In retrospect, the early post-Cold War years represent a missed opportunity to create a co-operative security regime in the European and North Atlantic area, with the CSCE/OSCE serving as a potential institutional foundation. The Helsinki Final Act, the Charter of Paris, and the Copenhagen Document of the Conference on the Human Dimension of the CSCE provided the normative foundation for a co-operative security regime. The creation since 1990 of institutions including the Conflict Prevention Centre, the HCNM, and the Office of Democratic Institutions and Human Rights (ODIHR), among others, if provided with adequate resources and political support, established the institutional structures necessary to implement a wide range of conflict management measures. Subsequent conferences in Moscow and Valletta, among others, added new mechanisms to the “toolbox” for conflict management. Therefore, there is no need to create new norms, institutions, or conflict

24 Cf. *Back to Diplomacy*, cited above (Note 3), p. 27 (p. 398).

25 Cf. *ibid.*, p. 29 (p. 401).

management mechanisms in the OSCE region. What is needed is a commitment to utilize and implement fully the structures that already exist.

For instance, it is especially instructive to imagine how the Ukraine crisis in 2014 might have turned out differently if the full capacity of the OSCE had been utilized by all participating States. An alternative, “counterfactual” scenario might have entailed Russia, in the face of an extra-constitutional change of government in Kyiv that was perceived as threatening by many ethnic Russians in Crimea and eastern Ukraine, coming to the OSCE and requesting that the seldom-used Valletta Mechanism be put in motion, calling for third-party mediation between Russia and Ukraine. This could have led to international assurances that the rights of Crimean citizens, threatened by the change of government in Ukraine, would be protected internationally. The Crimean leadership could have requested that ODIHR schedule an internationally supervised referendum on Crimea’s status, including the options of remaining in Ukraine as an autonomous region, independence, or joining the Russian Federation. ODIHR also could have assured that the referendum would allow for the participation of ethnic Ukrainians and Tatars residing in Ukraine. If, as might have been the case, a majority had voted in favour of union with the Russian Federation, the OSCE could have overseen the transition, while assuring that the rights of the Ukrainian and Tatar minorities were respected. In this hypothetical case, the use of military force by one OSCE participating State to change borders and intervene militarily in another, prohibited by the Helsinki Final Act and the UN Charter, could have been avoided. The process could have been transparent and peaceful, and likely would have been seen as legitimate by the international community. Furthermore, pursuing its concerns through the legitimate international institutions that Russia had helped to create would have enabled Moscow to escape the sanctions and international isolation that it has suffered as a consequence of its actions in Ukraine.

Similarly, a rapid negotiation, with OSCE mediation, of the crisis in the Donbas region would have been more likely to establish an appropriate level of decentralization, with significant devolution of power to regional institutions. This would have averted the situation in which the authorities in Kyiv were forced to respond militarily to a violent uprising supported by outside military assistance in their eastern regions, which has created hostility and distrust between Moscow and Kyiv and made a negotiated solution to the crisis difficult to achieve. To its credit, Russia did not block and has even contributed personnel to the OSCE Special Monitoring Mission (SMM) to Ukraine. However, the only negotiated agreements reached at two separate conferences in Minsk have so far produced only a ceasefire agreement and provisions for withdrawal of heavy armaments from the line of contact between the opposing forces. And, as the SMM has reported virtually every day, there are frequent violations of the provisions of the Minsk agreements by all sides.

In short, all of the factors that have driven Russia away from its participation in the post-Cold War co-operative security institutions have made it difficult for these institutions to resolve a conflict that has pitted Russia against both the West and the “states in-between”. The dilemma is that it will be very difficult to strengthen these institutions in the midst of this conflict – as the divergent narratives in the Panel of Eminent Persons’ Report demonstrate clearly – and it will be almost impossible to resolve this conflict unless and until these institutions are strengthened and a new vision of co-operative security is realized. Escaping from this “chicken-and-egg problem” is thus the greatest challenge to rebuilding co-operative security in Europe.

Clearly the OSCE’s co-operative security regime has fallen short of the outcomes imagined by the collective political leaders as the “new world order” emerged from the dark days of the Cold War. The transition at the end of the Cold War was a tumultuous period, especially because of the simultaneous collapse of the Soviet empire and the multiethnic Yugoslav state, which created conditions that allowed numerous violent ethno-national conflicts to break out. The CSCE was largely unable to respond immediately to so many violent conflicts at a time when its institutions and conflict-management mechanisms were still in their formative stage. Nevertheless, its inability to respond before the “Rubicon” of violence had been crossed created doubts in many participating States about its effectiveness as a tool of conflict management. The management of violent conflicts, and the effort to build peace in their aftermath, is inevitably a more difficult task than preventing violence in the first place.

After violence came to an end in most of these regions by the turn of the millennium, many thought that conflict prevention was no longer required, so the human and financial resources that should have been devoted to conflict management were drastically reduced. Post-conflict stabilization, management of so-called “frozen” conflicts, and post-conflict peace-building became the primary focus of OSCE efforts after 2000. Unfortunately, this left the institution insufficiently prepared to deal with the violent conflicts that emerged between Russia and Georgia in 2008 and between Russia and Ukraine in 2014 and afterwards. In both cases, the OSCE was largely cut out of its conflict prevention role and was faced with managing a *fait accompli* only after violence had occurred and OSCE principles had been flagrantly violated.

At a deeper level, however, the failure of the OSCE to develop into a full-blown co-operative security regime resulted from a broadly shared, residual belief by the leadership of many participating States across the region in the fundamental principles of realist international relations. Ideas that dominated the thinking of statesmen for centuries remain very sticky, even after many of the conditions upon which these ideas were founded seem to have disappeared from the European continent. Whether based on a belief in unchangeable human nature at one level or upon a permanent structure of international anarchy at another, these beliefs pushed political leaders to pur-

sue the security of their own states at the expense of potential rivals and to believe that security depends more on a balance of power among competing alliances than upon institutions pursuing a co-operative security agenda. And so the neo-realist theory became a self-fulfilling prophecy.

As a consequence, politicians in the West were unable to abandon the idea of the superiority of NATO over the OSCE as a guarantor of security, and this view was emphasized especially by most of the newly independent countries of Central and Eastern Europe that had emerged from Soviet domination. In Russia, on the other hand, the broadly shared perception of having “lost” the Cold War, and the feelings of humiliation and weakness that followed, created a widespread sense of insecurity, even though most leaders in the West initially did not perceive their securitization of Western Europe as providing a threat to their neighbours to the East. Nonetheless, the resulting perception of insecurity in Russia led to a rise in ultra-nationalism, especially as President Vladimir Putin sought to “make Russia great again”. But Putin’s vision of Russian greatness was founded on his belief in the unity of the Russian people within a single *nation*, whatever their *state* of residency, thereby apparently providing Russia with a rationale for maintaining a *droit de regard* (right of oversight) and at times even a *droit d’ingérence* (right to intervene) in neighbouring states where large ethnic Russian minorities reside. In their security culture, this is supplemented by a desire to retain buffers between Russia and its Western neighbours, whom they believe failed to respect Russian values and interests.

Therefore, the foundation upon which security is constructed in Europe in the 21st century in many ways represents a reversion to beliefs formed in the 18th and 19th centuries under the doctrine of political realism and brought to their extremely violent fruition in the two world wars of the first half of the 20th century. Although the end of the Cold War provided a unique opportunity for an alternative “construction” of beliefs about international security to be realized through regimes such as the one based on the OSCE, the traditional belief in defensive realism seem to have trumped the newer liberal institutionalist ideas about co-operative security. This, along with a series of unfortunate missteps, missed opportunities, and the inability to adapt to the new international order with sufficient rapidity, contributed to the marginalization of the OSCE as an institution and even more importantly to the very idea of co-operative security as an alternative system of global order to the traditional one based on *realpolitik*.

What is needed, therefore, to strengthen co-operative security in Europe is not new institutions, principles, or conflict management tools, but a change in the collective mindset regarding the indivisibility of security. Rather than holding to competing narratives, focusing on attributing blame for what went wrong in the past, what the OSCE needs today is to reinvigorate the ideas and practices of co-operative security that formed the cornerstone of the Helsinki process over the past 40 years. Competing conceptions of security need to be

replaced by a shared conception that peace and security are, indeed, indivisible and must be based on co-operation rather than renewed competition. We need to reimagine what might have evolved if the co-operative security regime that emerged after the end of the Cold War had been allowed to flourish instead of pursuing the disparate paths taken by states in the West, in Russia, and “in-between”. Only when this normative consensus is reborn can the existing institutions, principles, and mechanisms function as they were originally intended to provide the foundation for a genuine regime of co-operative security from Vancouver to Vladivostok.

The OSCE Participating States:
Domestic Developments and Multilateral Commitment

Co-operative Security in 21st Century Europe: A Diplomatic Caucus Race?

At the time of writing, there are six weeks to go until the UK referendum on membership of the EU. This gives the reader the advantage of over me in assessing “domestic developments”. Whatever the outcome, the UK’s strong commitment to multilateral diplomacy and the rules-based international order of which the OSCE is a part will remain.

The unresolved legal status of the OSCE does not in any way diminish our commitment to the OSCE or its principles and commitments, dating back to Helsinki in 1975 and extending through Paris, Istanbul, and Astana to the present day. These OSCE principles and commitments and the fundamental freedoms they are designed to promote and protect are among our highest priorities at the OSCE. Indeed we would like to see them strengthened, for instance where they fall short of agreements reached at the UN, and updated.

But we see ourselves as a country not only of principles but also of practicality. We believe that what we do in international organizations and multilateral diplomacy should make a difference in the “real world”. Which is why you will often hear me or members of my UK Delegation calling for better evaluation procedures or asking what difference has been made by a project or activity. This is important in the OSCE, where our shared concept of comprehensive security relies upon a “multidimensional” approach to promoting stability and reducing the risk of conflict and instability. We need constantly to check that in an environment of shifting security threats and limited resources everything we do not only upholds our principles and commitments but also helps deliver sustainable stability and security.

25 Years of the OSCE ...

The OSCE, its commitments, and challenges have run like a thread through my diplomatic career so far. I have worked exclusively in the OSCE region, and almost entirely on issues in the OSCE’s three dimensions or “baskets”. Many of the questions that demand my attention now as Head of the UK Delegation to the OSCE also occupied me during my first posting to the Soviet Union from 1988 to 1992. Back then I travelled in the Baltic States, Ukraine, and the Caucasus, met Moscow advocates of human rights and religious freedom, read about the Crimean Tatars, and reported inter-ethnic conflict in the Ferghana Valley, to give just a few examples. Nagorno-

Note: The views contained in this contribution are the author’s own.

Karabakh, lately again in the world's headlines, was a particular preoccupation for the first few months.

Subsequently, living and working in Vilnius, The Hague, Moscow again, and Prague brought me into contact with conflict in the Balkans, through the work of the International Criminal Tribunal for the former Yugoslavia, as well as the legacy of communism and the Iron Curtain. In between, in London, I also worked on what the OSCE would refer to as transnational threats, primarily international terrorism.

As a young diplomat in the optimistic early 1990s, I might have looked forward twenty years imagining that with old strategic challenges behind us, the Helsinki spirit of co-operative security would have brought resolution to local conflicts and a genuinely co-operative approach to the implementation of OSCE commitments and principles. But as so often in life, the reality has proved much messier, with events evolving in a way that very few predicted.

... to the Present Day

Why, after twenty five years' investment of political and diplomatic capital in an institution designed to build co-operative security through "confidence- and security-building" and dialogue, is it now harder to achieve understanding and productive engagement than at any time since the dismantling of the physical barriers that divided us?

The OSCE (and the CSCE before it) has been both witness to and sometime participant in the intervening events and processes that have shaped our political and security environment; but it has rarely driven events. Over the intervening years, some participating States have questioned the value of the OSCE and of devoting national resources to it.

The UK approach has been to promote the effectiveness and relevance of the OSCE from within, including retaining a dedicated, full time delegation in Vienna. Perhaps the reason lies in the centrality of fundamental freedoms to our model of liberal democracy, our deep commitment to repairing the damage done by the Iron Curtain, and conceivably also our instinctive preference for practical ways to reduce risk of conflict.

It would be an exaggeration to suggest that the UK has for all this time seen the OSCE as the foremost guarantor of our peace and security. Although well known in diplomatic and foreign policy circles, the OSCE rarely features prominently in the public eye in the UK. Unlike the UN, the EU, and NATO, it is not a household acronym.

Changed Perceptions

Ironically, it was the point that some might argue epitomized the shortcomings of the OSCE – the onset of the crisis “in and around Ukraine” and Russia’s illegal annexation of Crimea, violating almost every rule in the OSCE book – that brought the institution to greater prominence.

Ukraine has changed perceptions of the relevance and value of the OSCE. Understanding of the OSCE, its nature, and limitations has not always kept pace with its increased political and media profile. All of us who work in or with the OSCE share a responsibility to improve understanding of the Organization, its possibilities, and its limitations.

Changed Responses

Since the start of the Ukraine crisis, the OSCE has risen in prominence in the thinking of UK policy makers. As well as devoting attention and resources to political, conflict-management, and humanitarian aspects of the crisis, we have made substantial financial contributions to other high-priority OSCE activities and reinstated a full time Senior Military Adviser to the UK Delegation.

The UK contributes around ten per cent of the OSCE’s unified budget, including a higher proportion towards field missions. In 2015-2016 we paid over seven million pounds towards the costs of the Special Monitoring Mission to Ukraine. In addition, we allocated significant further funding for extra-budgetary activities, including demining in eastern Ukraine to protect children and other non-combatants and safer storage of weapons in Bosnia.

We are constantly looking for ways to help increase impact and effectiveness so that the political and financial investment of the UK and the other 56 participating States brings the greatest possible benefit for security and stability in the OSCE region. We have a deserved reputation for taking a tough approach to organizational efficiency. We want to see resources appropriately allocated and well managed, with results tracked and evaluated accountably. We will continue to do this because we believe it important for the effectiveness and reputation of the OSCE. In the same way, we will continue to push hard for the OSCE to remain focused on the highest priority issues and risks to the region’s stability and security, and to concentrate effort where it can add the most value.

Changed Reality?

Perceptions are one thing, but reality is changed beyond the walls of the Hofburg. The Russian Federation’s illegal annexation of Crimea and military

aggression in the Donbas not only created a rupture within the OSCE but had other significant consequences, such as the suspension of NATO dialogue with Moscow, EU economic sanctions and Russian countermeasures, and the effective expulsion of Russia from the G8. Propaganda from the Kremlin that attempts to misinform and mislead on a massive scale has also played a major part in increasing mistrust between a Russian population heavily reliant upon state-controlled media and an outside world increasingly sceptical of what Moscow says.

The crisis “in and around Ukraine” may be a symptom rather than the cause of the state of relations between Russia and its Western neighbours, but Russian actions in Crimea and the Donbas have precipitated a change in reality that leaves Moscow isolated diplomatically and heightens the risk of military miscalculation. In his introduction to the report of the Panel of Eminent Persons (see below), Wolfgang Ischinger, Chairman of the Munich Security Conference, who presided over the panel, wrote that implementation of the Minsk agreements to resolve the Ukraine crisis was “the most urgent diplomatic task of all”.

The Problem of “Dialogue”

“Renewing dialogue, rebuilding trust, restoring security” is the admirable, if ambitious, motto of the 2016 German OSCE Chairmanship. Others echo Germany’s aspiration:

“Dialogue is good but needs to tackle the tough issues of our time.”¹

“Dialogue on questions of immense importance to all human civilization [...]”²

“[...] we should seize every opportunity for genuine dialogue, based on good faith and political will”.³

The OSCE is indeed the place where the spotlight can be kept on our most difficult regional security issues. Week in week out, EU member states, the US, Canada, and others, including Ukraine itself, exchange views with Russia in the formal, semi-public setting of the Permanent Council and other forums on the situation in and around Ukraine.

The Permanent Council finds itself on the front line of a war of words. The prevailing language of this discourse challenges dialogue’s most ardent proponents. Myths and disinformation about military personnel, or “little

1 Ambassador Daniel B. Baer, *The Right Leadership at a Difficult Time*, published in German as: *Wo Deutschland führen kann*, in: *Frankfurter Allgemeine Zeitung*, 10 February 2016, p. 8, available at <http://www.faz.net/aktuell/politik/sicherheitskonferenz/osze-vorsitz-wo-deutschland-fuehren-kann-14061049.html>.

2 Duma Speaker Sergei Naryshkin addressing the OSCE Parliamentary Assembly, February 2016.

3 European Union, 62nd Joint Meeting of the Forum for Security Cooperation and the Permanent Council, Vienna, 9 March 2016, *EU Statement on European Security*, FSC-PC.DEL/1/16, 9 March 2016, at: <http://www.osce.org/fsc/227686>.

green men”, in Crimea, Russian military and sophisticated weaponry in the Donbas, the shooting down of MH17, and so on, repeated at the multilateral table and behind closed doors as well as in the public sphere, inhibit productive engagement.

The UK view is a rather practical one. Talking is important, but rarely an end in itself. Clear purpose and end goals are prerequisites for productive dialogue, lengthy pre-prepared statements are not.

Facilitating interactive dialogue “at 57” is a challenge German Foreign Minister Frank-Walter Steinmeier hopes to overcome with an innovative informal (“Gymnich” style) meeting of Foreign Ministers this autumn. I wish him every success in making progress on the “tough issues of the day”.

As a study by the OSCE Network of Think Tanks and Academic Institutions observed, “One cannot continue with a routine dialogue as if nothing had happened”.⁴

Is the OSCE Still Relevant?

Yes. The pursuit of a secure, stable environment across the whole OSCE region and on our borders remains a daily preoccupation for almost every participating State large or small. My top priorities as Head of the UK Delegation to the OSCE centre on conflict prevention and resolution, reduction of military risk, and protection of fundamental freedoms. The continued case for the OSCE in each of these areas is clear, whether because of the tragic situation in the Donbas, tensions elsewhere that bubble over into violence, military misunderstandings (and provocation), the shrinking space for civil society, or contemporary conundrums relating to freedom of speech.

OSCE principles and commitments built up from Helsinki, through Paris and Istanbul, and on to Astana remain as important and relevant as ever for safeguarding the rights and interests of individuals and communities. Our instruments for conventional arms control and CSBMs hold significant potential for early warning and conflict prevention if applied and fully implemented in letter and spirit. And the OSCE model of comprehensive security looks ever more essential in the face of non-conventional threats to security and stability. The challenge here is to ensure that we do not confuse an effective “comprehensive” approach with lack of focus.

How Is It Performing?

There can be little doubt about the continued relevance or our purpose as an organization. But it is right to ask questions about how well the OSCE and its

4 OSCE Network of Think Tanks and Academic Institutions, *Threat Perceptions in the OSCE Area*, Vienna 2014, p. 6.

57 participating States have risen to the challenge of changing dynamics, transnational threats, and protracted conflicts on our continent.

What has the OSCE achieved? Has it reduced or prevented conflict and instability? Are we responsible for perpetuating an unsatisfactory status quo?

No OSCE State can be fully satisfied. At no time in recent decades have we come close to the level of protection of human rights or prevention of conflict aspired to in the OSCE *acquis*. Those directly involved in long-running peace or mediation processes argue that without their involvement things would be worse. I will leave fuller analysis and assessment to scholars and historians. But from a diplomatic point of view, resolutions depend less upon new processes or impetus than the genuine political will of all those involved to reach sustainable solutions.

In the Western Balkans, the OSCE has had a more active “hands on” role in sustainable post-conflict reconciliation through sizeable field operations. I have seen some of the painstaking work they undertake and been impressed by their patience and commitment. But as elsewhere in the OSCE I believe there may be more we could do to ensure our resources and the efforts of our people result in the best possible contribution to sustainable stability.

During a recent Chatham House discussion on European Security,⁵ I heard eminent non-governmental experts argue that expectations of international institutions are too high. This might apply particularly to the OSCE, an organization built on principles and commitments.

There may always be some differing perspectives on OSCE priorities. But we have a common starting point in the undertakings made by all participating States. In pursuit of these, the UK looks to the OSCE to contribute to European security through practical action rather than new grand designs. The OSCE is about much more than the governments of its 57 participating States or the Vienna-based Permanent Council of ambassadors with its cat’s cradle of committees and working groups. We hold in high regard the contribution made by the Representative on Freedom of the Media, the Office for Democratic Institutions and Human Rights, and the High Commissioner on National Minorities. But the OSCE is also more than its institutions and field operations. It is about a much wider and deeper network of peace builders, defenders of human rights and fair legal order, teachers, media professionals, politicians, local authorities, networks, and responsibilities that reach through civil society right across our region. It is vital that we always keep in sight the direct link between what we do in the Permanent Council and the reality for our citizens.

5 Chatham House conference “Security and Defence in Europe”, March 2016, London.

What is seen by other OSCE States as an illegitimate and illegal attack on sovereignty and territorial integrity is presented through a Moscow prism as the creation or defence of a sphere of influence in the interests of national security. The “crisis in and around Ukraine”, like protracted conflicts elsewhere, appears to be considered by the Kremlin as unfinished business arising from the 1991 dissolution of the Soviet Union, an event famously described by President Vladimir Putin as a geopolitical catastrophe.

The OSCE, which developed in the optimism of the early 1990s, was not designed for the current turn of events. Notwithstanding perceptions of its enhanced value and relevance, it has been severely challenged by the illegal annexation of Crimea and, what is effectively armed conflict between two of the largest OSCE States. This in turn has led to the breakdown of already fragile trust and confidence within the OSCE, all but paralysing the diplomatic decision-making bodies of this consensus-based organization.

To give just two examples: Russia declines to engage on increasing military transparency and reducing risk by updating the Vienna Document. Russia blocked all nine candidates for the post of Representative on Freedom of the Media, asserting that none of the senior journalists, NGO experts, diplomats, and academics, was sufficiently “eminent”. Russian tactics are sometimes clearer than objectives.

... And Solving It – The only Way Is Helsinki

In 2014, and not for the first time, a Panel of Eminent Persons was recruited by the OSCE Chairmanship to address strategic issues around European Security and the OSCE. Chaired by Wolfgang Ischinger and tasked with considering “how Europe could reconsolidate its security as a common project [...] and to examine ways of re-launching the idea of co-operative security”, taking account of the “damage done by the crisis in and around Ukraine” and “the annexation of Crimea by force [...] an action unprecedented in post-war Europe”.⁶

Problems familiar from Viennese diplomatic discourse were replicated in the deliberations and final report of the Eminent Persons. They were unable to reach understanding on facts, analysis, or remedies. But it was striking that, having observed that “the vision of a ‘common European home’

6 *Back to Diplomacy. Final Report and Recommendations of the Panel of Eminent Persons on European Security as a Common Project*, November 2015, p. 5, at: <http://www.osce.org/networks/205846>; reprinted in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2015*, Baden-Baden 2016, pp. 377-408, here: p. 379.

may be more remote today than it appeared two decades ago”,⁷ they concluded that, although “violated in most damaging ways”, the Helsinki Principles remained “the only basis for a Euro-Atlantic and Eurasian space in which people and nations can live in peace”.⁸

Personal Observations: Diplomatic Caucus Race

In Lewis Carroll’s *Alice in Wonderland*, a young child observes a collection of exotic creatures running around in a circle with no obvious finishing line or “objective” in sight, but prizes expected for all. Multilateral diplomacy in pursuit of co-operative twenty-first century security in Europe can have something of the same feel. It may not always be a great spectator sport, being short on direction and dynamism. But, as long as everyone understands and abides by the same rules, a peaceful equilibrium can be achieved with no harm, some individual reward for everyone and a shared benefit of stability and predictability. If, however, one or more participants disregard the rules they have signed up to in pursuit of individual aims counter to the interests and even rights of other participants, chaos or conflict ensues, stability is undermined and instead of winning prizes, perpetrator, victim, and third parties all have to pay costs. In international diplomacy it may be tempting to conclude that the rules are unfit for purpose, or even that rewarding the perpetrator offers the best outcome, a “solution” that would appear to be nonsensical even in Alice’s *Wonderland*.

In the real world of twenty-first century European security, preventing further immediate conflict and damage is only part of the challenge. A truly effective and sustainable role for the OSCE in the international rules-based order depends upon a high degree of trust and transparency. Restoring these is arguably the greater challenge, requiring political will and good faith. Or, as Alice and the March Hare might have put it, readiness to say what you mean and mean what you say, including in international undertakings. In the shorter term, pending more auspicious times, better understanding of respective interests and goals would help restore the delicate equilibrium of the diplomatic caucus race and allow some progress to be made.

Conclusions: Useful Endeavour?

Imperfect as it is, the OSCE has a role as a safety valve where views and opinions are exchanged and contacts maintained. This gives all concerned at least some insight into each other’s policies and objectives. Even in the absence of any means of enforcement or penalties for non-compliance, Vienna

7 Ibid., p. 12 (p. 384).

8 Ibid., p. 5 (pp. 379-380).

processes and mechanisms help keep human rights and fundamental freedoms on the regular international agenda – and still have potential to reduce risk of military accidents and incidents.

The OSCE is a consensus organization. It can only fulfil its potential if all 57 want it to. Without good faith and political will, the OSCE can never achieve its full potential. This is highly unlikely to be possible in the current circumstances. But we have a shared responsibility to make the best we can of these circumstances, acting in critical areas where there is existing agreement and common interest, and at the same time continuing to invest in the effectiveness of the Organization so it is ready as and when circumstances allow it to achieve its full intended purpose.

In the meantime, as far as strategic, geopolitical issues are concerned, we can continue to work for predictability if not confidence, and transparency if not trust. We can invest attention and energy in management of protracted and post-conflict situations and, where the OSCE can make a unique contribution, work on practical responses to action transnational challenges. We can support the autonomous institutions and the important contribution they can make to conflict prevention and early warning. Working to preserve a continuing level of engagement and activity, we should be ever alert to the risk that strategic patience becomes institutional inertia.

One obvious antidote to that risk is to make the OSCE as fit as possible for the present and the future. Future achievement and performance will be the sum of capability, effort, and ability to respond to external factors. Success will take: strong leadership based on political credibility, diplomatic skill and unswerving commitment to OSCE principles and commitments; political engagement – for which we all need to demonstrate to our governments the ability of the OSCE to make a difference; capable, efficient, and responsive executive capabilities; a shift of focus from process and activity to outcomes; honest evaluation, including of long-running peace processes; and a rigorous focus on the highest priority issues where the OSCE has a unique regional or expert contribution to make.

The OSCE matters. Its principles matter. Its relationships matter. If it did not already exist we would need to invent it. Its structures and procedures may be a bit messy. But if we tried to design a tidier solution we would soon find realities and interests – geographical, historical, and political – getting in the way. For all the OSCE's idiosyncrasies and frustrations it offers us the architecture and instruments to address current and future challenges. We must all hope and pray that, in time, renewed respect and their better use will help lead us back to a more certain path for co-operative security and stability in Europe.

Brexit: The Mainstreaming of Right-Wing Populist Discourse

Introduction

On Thursday 23 June 2016, a referendum was held to decide whether or not the United Kingdom (UK) should remain a member of the European Union (EU). More than 30 million people turned out to vote, with 51.9 per cent voting in favour of “Leave” and 48.1 per cent voting to “Remain”.¹ The referendum campaign was particularly hard fought and revealed deep divisions within the country. Analysts are still piecing together the reasons why Britain voted to leave the EU, while also trying to decipher exactly what a British exit from the EU – or “Brexit” – actually entails. At a time when we are witnessing the rise of right-wing populist movements and a rejection of the establishment in Europe and the United States (US), this contribution aims to highlight how such rhetoric has managed to enter mainstream political discourse in the context of the Brexit campaign, and the negative consequences this has.

Euroscepticism: A Very British Problem

The pledge to hold an in-out referendum regarding membership of the EU was outlined in the Conservative Party’s 2015 manifesto.² The idea was that if the Conservative Party were to win a majority in the May 2015 general election, David Cameron would try to renegotiate the UK’s position within the EU and then ask the British electorate whether the UK should remain a member of the EU based on these reforms.³ While the manifesto pledge and the Conservative Party’s subsequent success in the 2015 general election are the immediate reasons why a referendum on Britain’s membership in the EU took place in June 2016, this campaign has arguably been in the making for a quarter of a century.⁴ Since joining the then European Economic Community (EEC) in 1973, Britain’s EU membership has been a contentious issue across the entirety of the political spectrum. As a reluctant latecomer to the club, the

1 Cf. Alex Hunt/Brian Wheeler, *Brexit: All you need to know about the UK leaving the EU*, BBC News, 10 November 2016, at: <http://www.bbc.com/news/uk-politics-32810887>.

2 Cf. The Conservative Party, *The Conservative Party Manifesto 2015*, pp. 72-73, at: <https://s3-eu-west-1.amazonaws.com/manifesto2015/ConservativeManifesto2015.pdf>.

3 Cf. *ibid.*

4 Cf. Andrew S. Crines, The rhetoric of the EU Referendum campaign, in: Daniel Jackson/Einar Thorsen/Dominic Wring (eds), *EU Referendum Analysis 2016: Media, Voters and the Campaign: Early reflections from leading UK academics*, Poole, June 2016, p. 61.

UK has displayed more of a transactional relationship with the EU than one based on ideological ties.⁵ In 1975, it was the Labour Party led by Harold Wilson that put the issue of EEC membership to the public.⁶ However unlike in 2016, the British population voted to remain in the EEC, with 67 per cent in favour.⁷ While the Labour Party was initially more Eurosceptic,⁸ and a few Labour Members of Parliament (MPs) remain so,⁹ this is rather an issue that has plagued and divided the Conservative Party since Margaret Thatcher was ousted. The Economist argues that a key turning point for the Conservative Party was in 1988, when Jacques Delors – the European Commission’s president at the time – announced that Europe’s single market would be bolstered by tougher labour and social regulations.¹⁰ This went too far in the eyes of some, and, as Thatcher stated in her 1988 Bruges speech: “To try to suppress nationhood and concentrate power at the centre of a European conglomerate would be highly damaging and would jeopardise the objectives we seek to achieve.”¹¹ This speech not only inspired a generation of Conservative Party Eurosceptics, but also fuelled the right-wing British press, who have used their publications to air criticisms about the EU ever since.¹² So began the rhetoric of shadowy unelected bureaucrats in Brussels attempting to enforce a stronger economic and political union onto sovereign states.

Disunity on the issue continued during John Major’s tenure as prime minister, and while the Conservatives were the opposition party between 1997 and 2010. When David Cameron assumed leadership of the party in 2005, he was brought in as a modernizer and expressed the view that his peers should stop “banging on” about Europe if they wanted to regain power after three unsuccessful elections.¹³ Cameron underestimated this however, and not only did he face strong opposition from his own MPs, but the rise of the UK Independence Party (UKIP) and its leader Nigel Farage also presented major problems. Within the last decade, Farage has been able to lead

5 Cf. The roots of Euroscepticism, in: *The Economist*, 12 March 2016, at: <http://www.economist.com/news/britain/21694557-why-britons-are-warier-other-europeans-eu-roots-euroscepticism>.

6 Cf. *ibid.*

7 Cf. Matthew d’Ancona, Brexit: how a fringe idea took hold of the Tory party, in: *The Guardian*, 15 June 2016, at: <https://www.theguardian.com/politics/2016/jun/15/brexit-how-a-fringe-idea-took-hold-tory-party>.

8 Leaving the EEC was a Labour Party pledge in 1983, cf. The Labour Party, *The New Hope for Britain: Labour’s Manifesto 1983*, full text available at: <http://www.politicsresources.net/area/uk/man/lab83.htm>.

9 Ten Labour MPs expressed their support for the Leave campaign, cf. *EU vote: Where the cabinet and other MPs stand*, BBC News, 22 June 2016, at: <http://www.bbc.com/news/uk-politics-eu-referendum-35616946>.

10 Cf. *The Economist*, cited above (Note 5).

11 Full speech at: <http://www.margaretthatcher.org/document/107332>.

12 Cf. Dominic Wring, From Super-Market to Orwellian Super-State: the origins and growth of newspaper scepticism, in: Jackson/Thorsen/Wring (eds), cited above (Note 4), pp. 12-13.

13 Cited in: *Cameron places focus on optimism*, BBC News, 1 October 2006, at: http://news.bbc.co.uk/2/hi/uk_news/politics/5396358.stm.

his party from a single-issue fringe movement to one that has had a considerable impact on the course of British politics.¹⁴

The Rise of UKIP and the Right-Wing Populists

James Dennison and Matthew Goodwin attribute UKIP's success to their assuming "ownership" of the immigration issue, which had historically been a Conservative strength.¹⁵ Immigration has become an increasingly prominent issue in British politics, and polls have shown that anxieties regarding increased immigration have surpassed economic concerns in recent years.¹⁶ In light of this, UKIP has successfully managed to exploit these anxieties and entrench issues of uncontrolled immigration into their broader Eurosceptic and anti-establishment narrative.¹⁷ UKIP performed well in the 2013 local elections,¹⁸ but their real success was seen in the 2014 European Parliament elections where they came first, defeating Labour, the Conservatives, and the Liberal Democrats.¹⁹ This victory was particularly significant as it was the first time a party other than Labour or the Conservatives had won a UK-wide election in 100 years.²⁰ The keys to UKIP's success were its ability to capitalize on the Labour Party's disillusioned electorate in its "Northern Heartlands" and the divisions that existed within the Conservative Party on Europe, while also exploiting both parties' perceived incompetence regarding immigration. UKIP's gains prompted the Conservatives to take the issues of immigration and the EU more seriously during the 2015 general election campaign.²¹ While the first-past-the-post system largely prohibits representation of smaller parties in the parliament, UKIP accrued over four million popular votes (12.6 per cent) in the 2015 general election. The party only won one seat in parliament, yet outperformed the Liberal Democrats as the third most popular party in the UK.²²

14 Cf. James Dennison/Matthew Goodwin, *Immigration, Issue Ownership and the Rise of UKIP*, in: *Parliamentary Affairs*, supplementary issue, September 2015, pp. 168-187.

15 Cf. *ibid.*, p. 179.

16 Cf. Ipsos MORI, *Economist/Ipsos MORI Issues Index*, October 2016, p. 2, at: <https://www.ipsos-mori.com/Assets/Docs/Polls/issues-index-october-2016-charts.pdf>.

17 Cf. Dennison/Goodwin, cited above (Note 14).

18 Cf. Colin Rallings/Michael Thrasher, *Local Elections in England and Wales May 2013*, August 2013, at: http://www.electoralcommission.org.uk/_data/assets/pdf_file/0017/163142/EandW-local-elections-data-report2-11-06.pdf.

19 Cf. European Parliament, *Results of the 2014 European Elections, Results by Country, United Kingdom*, at: <http://www.europarl.europa.eu/elections2014-results/en/country-results-uk-2014.html>.

20 Cf. *Farage: UKIP has 'momentum' and is targeting more victories*, BBC News, 26 May 2014, at: <http://www.bbc.com/news/uk-politics-27567744>.

21 Cf. Neil Ewen, *The age of Nigel: Farage, the media, and Brexit*, in: Jackson/Thorsen/Wring (eds), cited above (Note 4), pp. 86-87.

22 Cf. *Election 2015, Results*, BBC News, at: <http://www.bbc.com/news/election/2015/results>.

UKIP's rise is reflective of the situation across Europe and the US, where there has been a surge in support for right-wing populist parties and figures. Cas Mudde, a seasoned expert on the issue, defines populism as "an ideology that separates society into two homogeneous and antagonistic groups, 'the pure people' and 'the corrupt elite', and that holds that politics should be an expression of the 'general will' of the people".²³ Mudde argues that recent events that have stoked public anxieties, including the refugee situation, terrorist attacks in Europe in 2015 and 2016, and the Eurozone crisis, have created favourable conditions for populist parties – on both the right and the left of the political spectrum. However, Mudde contends that current events have not created such movements, and, contrary to conventional wisdom, support for right-wing populists is not necessarily attributable to economic factors – for example, among the economic "losers" of globalization or those who suffered as a result of the Great Recession that followed the global financial crisis in 2008. To understand this phenomenon, we need to look back at the first decades of the post-war era, when the political parties converged on key issues, such as increased political integration in Europe, maintaining the welfare state, neo-liberal economic policies, and promoting diversity within societies. This era was also marked by de-industrialization, and a decline in religious values. Both centre-left and centre-right parties took a step back from their historical ideologies and converged on a number of policies that "created a fertile breeding ground for populism".²⁴ The working class and more conservative voters that tended to opt for the centre-left and centre-right parties, respectively, found that the parties were too similar and had lost the ideology that they had once identified with. Moreover, deeper EU integration saw some aspects of power removed from national governments and placed in the hands of unelected commissioners, which some saw as a major threat to sovereignty. The internet has also aided the growth in support for right-wing populists, as alternative news is available at the touch of a button and can be shared within individuals' own "echo chambers" on social media. Populist narratives can be widely distributed through this medium, without the "gatekeeping function" of the traditional media to dispute or correct often simplified or false claims.²⁵ That being said, the traditional right-wing media in the UK has also been very much culpable of fabricating the truth, especially when it comes to the topic of the EU. The dedicated Euromyths website is testament to this.²⁶

Ronald Inglehart and Pippa Norris tested two theories in relation to the rise of populism, and their results very much correlate with Mudde's idea that

23 Cas Mudde, Europe's Populist Surge: A Long Time in the Making, in: *Foreign Affairs* 6/2016, at: <https://www.foreignaffairs.com/articles/europe/2016-10-17/europe-s-populist-surge>.

24 Ibid.

25 Cf. *ibid.*

26 Cf. European Commission, *Euromyths*, at: <http://blogs.ec.europa.eu/ECintheUK/euromyths-a-z-index>.

support for populism is not necessarily grounded in economic insecurity, but rather represents a reaction to cultural changes. In other words, populist movements are particularly attractive to those who feel that their traditional values and customs are being threatened by cosmopolitan ideas and increased diversity.²⁷ Inglehart and Norris argue that this is largely a result of an increased emphasis on issues such as climate change, gender and racial equality, and equal rights for the LGBT community. This in turn has created a “cultural backlash” predominantly among (but not limited to) older, less educated white males, “who once dominated the majority culture in Western societies, [and] have come to feel that they are being marginalized within their own countries”.²⁸ Right-wing populist politicians articulate a strong rejection of new cosmopolitan values and appeal to nostalgia for the more homogeneous societies of days gone by. Taken together, it is clear that these political shifts in the post-war era stimulated a climate in which right-wing populists could create a platform for themselves. Recent events such as the Great Recession and the so-called refugee crisis have “turbocharged” the growth of such parties, boosting their support. This has made it easier for right-wing populist agendas to enter the mainstream, where they have come to strongly influence public debates.²⁹ Mudde goes on to argue that politicians within the established parties “merely react, sometimes even adopting elements of populist rhetoric, peppering their speeches with references to ‘the people’ and condemnations of ‘elites’.”³⁰

In the case of the UK, UKIP not only managed to put an EU referendum on the agenda but also to make immigration a major issue in the 2015 general election. These debates are not necessarily problematic in themselves; it is rather the way in which they have been conducted that raises cause for concern. As will be demonstrated below, those from established political parties who campaigned for Leave adopted and mimicked certain tactics used by right-wing populist parties. This is unsettling, as it effectively normalizes the more extreme aspects of right-wing populism, such as xenophobia and nationalism.

The Campaign: Facts vs. “Post-Truth”

The EU referendum campaign was officially led by two main groups: Britain Stronger in Europe and Vote Leave. While the Remain side was largely united, with David Cameron officially leading the cross-party initiative, Vote

27 Cf. Ronald F. Inglehart/Pippa Norris, *Trump, Brexit, and the rise of Populism: Economic have-nots and cultural backlash*, Harvard Kennedy School Faculty Research Working Paper Series, August 2016, at: <https://ces.fas.harvard.edu/uploads/files/events/Inglehart-and-Norris-Populism.pdf>.

28 Ibid., p. 20.

29 Cf. Mudde, cited above (Note 23).

30 Ibid.

Leave originally battled it out with another campaign, Grassroots Out (also known as Leave.EU) to be the official Leave campaign. Vote Leave was headed by prominent Conservatives, such as Boris Johnson, Michael Gove, Chris Grayling, and Iain Duncan Smith, as well as the majority of Labour MPs who supported leaving the EU, and UKIP's only MP, Douglas Carswell. Leave.EU was founded by UKIP's major donor Arron Banks and backed by Nigel Farage. Leave.EU merged with Grassroots Out shortly after the latter, which was backed by Labour MP Kate Hoey and Conservative MP David Davis, was launched in January 2016.³¹ As the official campaigns, Britain Stronger in Europe and Vote Leave (hereafter referred to as the Remain and Leave campaigns respectively) were allowed increased spending limits, public grants of up to 600,000 pounds, more campaign broadcasts, and access to public meeting rooms and the electoral register. Grassroots Out/Leave.UK campaigned within its own capacity and was led by Nigel Farage who sought to distance the group from the "Westminster bubble" of the official Leave campaign.³²

The EU referendum campaign presented a chance for an open and constructive debate on the advantages and disadvantages of EU membership and a way to address citizens' legitimate concerns. This opportunity was not taken, however, as the campaign was plagued with emotion, moral panics,³³ and deception. In 2016, the Oxford Dictionaries declared "post-truth" the word of the year.³⁴ The adjective "post-truth" was defined by the dictionary as "relating to or denoting circumstances in which objective facts are less influential in shaping public opinion than appeals to emotion and personal belief".³⁵ The word was chosen as a reflection of the EU referendum and the US presidential election campaigns. Post-truth tactics are also often employed by populist politicians, who thrive on providing simple answers to very complicated, emotionally-charged issues. Take for example the Leave campaign's infamous "battle bus", which claimed: "We send the EU £350 million a week, let's fund our National Health Service (NHS) instead. Vote Leave. Let's take back control." This claim was untrue on both counts. Iain Duncan Smith back-pedalled on the pledge just days after the referendum, claiming that he never made such a promise and a "lion's share" of that money *may* be spent on the NHS depending on what the government decides,³⁶ notwith-

31 Cf. *The battle to be the official EU referendum Leave campaign*, BBC News, 14 March 2016, at: <http://www.bbc.com/news/uk-politics-34484687>.

32 Cf. *ibid.*

33 Defined in the *Oxford Dictionary* as: "An instance of public anxiety or alarm in response to a problem regarded as threatening the moral standards of society".

34 Cf. Alison Flood, "Post-truth" named word of the year by Oxford Dictionaries, in: *The Guardian*, 15 November 2016, at: <https://www.theguardian.com/books/2016/nov/15/post-truth-named-word-of-the-year-by-oxford-dictionaries>.

35 Cited in: *ibid.*

36 Cf. Graeme Demianyk, Iain Duncan Smith Says £350m "Brexit" NHS Pledge Was "Never" A Commitment, in: *Huffington Post*, 26 June 2016, at: http://www.huffingtonpost.co.uk/entry/iain-duncan-smith-350m-brexit-nhs-bus_uk_576f9f5ae4b0d2571149c4d1.

standing the fact that in terms of net contributions the figure is far less.³⁷ The Remain campaign attempted to debunk this, and a number of fact-checking websites, including Full Fact, also confirmed that the figure of 350 million pounds was wrong. However, it was too late, the message was out there, emblazoned on a bus touring the country and appealing to a wide range of people who were sincerely concerned that EU membership was causing a strain on national public services. Susan Banducci and Dan Stevens suggest that on a psychological level, individuals may selectively resist information and facts that run contrary to their own beliefs, or rather, what they want to believe. Thus, they argue in the context of the “battle bus” claim that those who really wished to spend the money on the NHS instead of the EU chose not to engage with the facts.³⁸ Arron Banks of Grassroots Out even boasted that “facts would not win the day”,³⁹ a sentiment echoed by Michael Gove, who argued that “people in this country have had enough of experts”.⁴⁰ Such rhetoric taps into a sentiment that is fundamental to right-wing populism: distrust of the “elite” and a disregard for experts telling the “ordinary decent person” how to live their lives. Such contempt for expert opinion from a supposedly respected MP such as Michael Gove demonstrates how populist ideas are being touted by centre-right politicians.

A YouGov poll conducted on the day of the referendum asked respondents to pinpoint the most important issue (out of a choice of ten) in deciding how to vote. Most tellingly, for Leave voters, sovereignty and immigration were the two most important reasons, with 45 and 26 per cent choosing these options, respectively. For those who voted Remain, the economy played the key role in influencing 40 per cent. On the other hand, only five per cent of Leave voters cited economic concerns as the main influence on their vote. Sovereignty was a concern for 21 per cent of Remain voters; yet only one per cent claimed that immigration was important in their decision. Moreover, only two per cent of either side cited trust of the respective campaigns as an influential factor in their decision.⁴¹

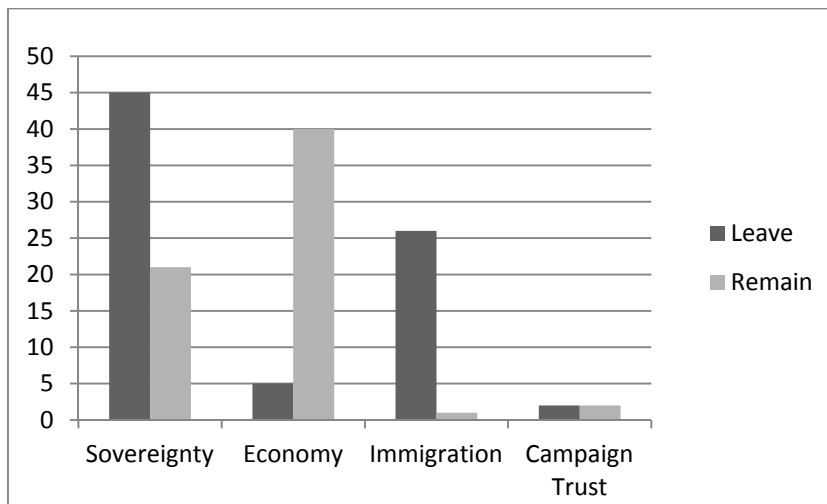
37 Cf. *Vote Leave “facts” leaflet: membership fee*, Full Fact, 23 May 2016, at: <https://fullfact.org/europe/vote-leave-facts-leaflet-membership-fee>.

38 Cf. Susan Banducci/Dan Stevens, *Myth versus fact: are we living in a post-factual democracy?* In: Jackson/Thorsen/Wring (eds), cited above (Note 4), p. 22.

39 Cf. Katherine Viner, *How technology disrupted the truth*, in: *The Guardian*, 12 July 2016, at: <https://www.theguardian.com/media/2016/jul/12/how-technology-disrupted-the-truth>

40 Cited in: *ibid.*

41 Cf. YouGov Survey Results, at: https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/640yx5m0rx/On_the_Day_FINAL_poll_forwebsite.pdf.



These findings are interesting, but they are not surprising given the focal points of both campaigns. As such, the Remain campaign concentrated much of its energy on the negative economic effects of a Leave vote, while immigration and sovereignty were the leading themes of the Leave campaign. As Sofia Vasilopoulou observes, the immigration frame was dominant in both the official Leave and Grassroots Out campaigns, which were successful in linking immigration with a number of themes such as security, the economy, public services, and social change. Thus, those on the Leave side were able to “successfully shift the debate to the question of immigration and portray sovereignty as the main solution to these concerns”.⁴² The Remain campaign, on the other hand, presented the economy in a “one-dimensional” way, avoiding the issue of immigration all together.⁴³ “Take back control” was an effective slogan in this case, as it encompassed the two key issues for Leave voters: controlling the borders and stopping uncontrolled immigration, as well as taking control of key decisions and not having to deal with interference from the notorious unelected bureaucrats in Brussels. The success of the Leave campaign lies in the fact that it was emotionally charged. The Remain campaign lacked such emotional pleas, and rather than putting forward a more positive case for the EU and the advantages of free movement and immigration, they argued rather uninspiringly that the EU was not perfect, but that leaving it would be awful for the economy.

42 Sofia Vasilopoulou, Campaign frames in the voters’ minds, in: Jackson/Thorsen/Wring (eds), cited above (Note 4), pp. 114-115, here: p. 114.

43 Cf. *ibid.*

The focus on immigration and the British electorate's concern regarding this issue is not new. As noted above, UKIP has successfully taken "ownership" of this concern, and, as a result, the rhetoric has slipped dangerously into nationalistic and xenophobic waters. A couple of years prior to the EU referendum, the discourse regarding EU migrants was particularly problematic. Public furore broke out upon the announcement that restrictions on freedom of movement and full EU employment rights would be lifted for Romanian and Bulgarian citizens on 1 January 2014.⁴⁴ Right-wing politicians and the press then went on to warn that there would be a surge of desperate Romanians and Bulgarians coming to more wealthy EU countries, taking the jobs of native people, and putting a strain on public services. These commentators additionally cited their fears that there would be an increase in crime and "benefit cheats".⁴⁵ Nigel Farage, in particular, expressed his discomfort at the prospect of a group of Romanians moving in next door to him, defending his statement by claiming that post-Communist countries such as Romania are highly susceptible to organized crime. Farage went on to accuse the "politically correct elite" of refraining from raising issues that are of great concern to the public.⁴⁶

It is also worth mentioning the role of the right-wing British press in contributing to the divisive atmosphere surrounding the issue of immigration. Newspapers such as the Sun, Daily Mail, and Daily Express have been stirring up negative attitudes towards immigrants, refugees, and the EU for years. For example, in a study on how the refugee crisis was being reported in five different European countries, the analysts found that the British press were the most aggressive when reporting on the situation compared to their neighbours. In particular, the right-wing British press was devoid of humanitarian sentiment and took a staunchly anti-refugee stance that stressed the threat refugees posed to British values and the welfare state.⁴⁷ Regarding their stance on the EU, Oliver Daddow aptly argues that "the public has been fed by many quarters of the press a solid diet of anti-EU reporting, centring

44 Cf. *End of restrictions on free movement of workers from Bulgaria and Romania – statement by László Andor, European Commissioner for Employment, Social Affairs and Inclusion*, European Commission, Press Release Database, Brussels, 1 January 2014, at: http://europa.eu/rapid/press-release_MEMO-14-1_en.htm.

45 Cf. Kimiko De Freytas-Tamura, Britain's New Immigrants, From Romania and Bulgaria, Face Hostilities, in: *The New York Times*, 31 May 2014, at: http://www.nytimes.com/2014/06/01/world/europe/britains-new-immigrants-from-romania-and-bulgaria-face-hostilities.html?_r=0.

46 Cf. UKIP, *UKIP leader stands by his assertion that people have a right to be concerned if a group of Romanians move in next door*, at: http://www.ukip.org/ukip_leader_stands_by_his_assertion_that_people_have_a_right_to_be_concerned_if_a_group_of_romanians_move_in_next_door.

47 Cf. Mike Berry/Inaki Garcia-Blanco/Kerry Moore, *Press Coverage of the Refugee and Migrant Crisis in the EU: A Content Analysis of Five European Countries*, UNHCR, December 2015, pp. 252-254, at: <http://www.unhcr.org/56bb369c9.html>.

on an undemocratic ‘Brussels’ machine subverting Britain’s governing institutions, British liberty and its way of life”.⁴⁸ Thus, this “consistent discourse” of taking back control of legislation and borders has been cemented in the mainstream right-wing press and, according to Paul Rowinski, influenced the final result of the EU referendum.⁴⁹

Similar rhetoric was peddled by the official Leave campaign regarding Turkey’s (unlikely) accession to the EU. The Leave campaign released a poster that portrayed a British passport as an open door with footprints going towards it and the words: “Turkey (population 76 million) is joining the EU. Vote Leave, take back control”.⁵⁰ The Turkey issue was problematic on several fronts, as not only was the claim totally misleading, but it also carried white nationalist undertones. First, to join the EU, Turkey would need to fulfil requirements in 35 policy areas in accordance with the Copenhagen Criteria;⁵¹ at the moment Turkey has only managed to adopt EU rules in one of these areas – “science and research”. Second, the decision for any country to accede to the Union must be ratified by all 28 member states; therefore not only would the UK be fully entitled to have its say on the matter, but with unresolved tensions between Cyprus and Turkey, it is highly unlikely that Turkey would receive approval from all member states in the near future.⁵² Even if Turkey were to join the EU in the next few years having fulfilled all the relevant requirements, the implicit message from the Leave campaign is deeply troubling. In other words, the poster may as well have stated: *Beware! Non-white individuals from a majority Muslim country will arrive in the UK in unprecedented numbers.* In addition to the poster, the Leave campaign argued that not only would Turkish citizens put further strain on the welfare state, but British people would also be less safe because crime is so high in Turkey, and EU membership would give free reign to Turkish criminals to enter Britain.⁵³ Former chairman of the Equality and Human Rights Commission (EHRC), Trevor Phillips, condemned the claims by the Leave campaign with the accusation that they were “stoking the fires of prejudice”.⁵⁴ Akin to the debate surrounding the free movement of Romanians and Bulgarians, such moral panics are poisoning the tone of the debate on free movement and demonizing citizens from non-Western European states.

48 Oliver Daddow, UK newspapers and the EU Referendum: Brexit or Bremain? In: Jackson/Thorsen/Wring (eds), cited above (Note 4), p. 50.

49 Cf. Paul Rowinski, Mind the gap: the language of prejudice and the press omissions that led a people to the precipice, in: Jackson/Thorsen/Wring (eds), cited above (Note 4), p. 52.

50 Cited in: Daniel Boffey/Toby Helm, Vote Leave embroiled in race row over Turkey security threat claims, in: *The Guardian*, 22 May 2016, at: <https://www.theguardian.com/politics/2016/may/21/vote-leave-prejudice-turkey-eu-security-threat>.

51 Cf. European Commission, European Neighbourhood Policy And Enlargement Negotiations, *Conditions for membership*, at: http://ec.europa.eu/enlargement/policy/conditions-membership/index_en.htm.

52 Cf. *Is Turkey likely to join the EU?* Full Fact, 26 May 2016, at: <https://fullfact.org/europe/turkey-likely-join-eu>.

53 Cf. Boffey/Helm, cited above (Note 50).

54 Cited in: *ibid.*

The lowest point in the campaign was the “Breaking Point” poster proudly showcased by Nigel Farage one week before the country went to the polls. It was endorsed by Grassroots Out, and quickly denounced by key members of the official Leave campaign. However the mere presentation of such a poster shows how far such extreme right-wing rhetoric has seeped its way into the mainstream discourse. The image depicted a line of non-EU and non-white refugees crossing the border between Slovenia and Croatia, with the words “BREAKING POINT: The EU has failed us all. We must break free of the EU and take back control of our borders.” Again, this poster was littered with falsehoods. The UK is not part of the Schengen Agreement, and therefore any refugees that enter Europe would not be able to come into the UK legally or under the principles of free movement, as they are not EU citizens. Regardless, the underlying message is worrying in the sense that it visually “others” young non-white individuals as burdens on British society, and blames the EU in the process. James Morrison argues that the poster set race discourse back decades while exploiting “the insecurities and anxieties of those it claimed to represent: the ‘ordinary decent people’ of the post-industrial North-East, South-West, Wales and eastern coastal fringes now so besieged by global market forces they are primed to be on the lookout for scapegoats”.⁵⁵ This poster additionally taps into the insecurities that membership of the EU continues to threaten homogenous white societies.

The very same day that Nigel Farage unveiled his latest assault on immigrants and the EU, the Labour MP Jo Cox was brutally murdered by right-wing terrorist Thomas Mair. Jo Cox was campaigning for Britain to remain in the EU and had advocated strongly for the UK to accept more refugees at the height of the crisis in 2015. Mair reportedly shouted “Britain first” and “keep Britain independent” as he murdered his local MP.⁵⁶ While it would be misleading to directly blame the referendum campaign for the assassination of Cox, as Mair had harboured Nazi and apartheid-era material in his home for nearly two decades before he acted upon his beliefs,⁵⁷ it is likely that the hostile atmosphere created by the campaign played a role in triggering Mair’s decision to murder a local political figure who supported remaining in the EU. As Alex Massie correctly observes: “When you shout BREAKING POINT over and over again, you don’t get to be surprised when someone breaks. When you present politics as a matter of life and death, as a question of national survival, don’t be surprised if someone takes you at your word.

55 James Morrison, Break-point for Brexit? How UKIP’s image of ‘hate’ set race discourse reeling back decades, in: Jackson/Thorsen/Wring (eds), cited above (Note 4), pp. 66-67.

56 Cf. Ian Cobain/Matthew Taylor, Far-right terrorist Thomas Mair jailed for life for Jo Cox murder, in: *The Guardian*, 23 November 2016, at: <https://www.theguardian.com/uk-news/2016/nov/23/thomas-mair-found-guilty-of-jo-cox-murder>.

57 Cf. Ian Cobain/Nazia Parveen/Matthew Taylor, The slow-burning hatred that led Thomas Mair to murder Jo Cox, in: *The Guardian*, 23 November 2016, at: <https://www.theguardian.com/uk-news/2016/nov/23/thomas-mair-slow-burning-hatred-led-to-jo-cox-murder>.

You didn't make them do it, no, but you didn't do much to stop it either."⁵⁸ This is precisely the problem with right-wing populist discourse entering the mainstream; it has the potential to encourage those who harbour the more extreme elements of the ideology to act upon their beliefs.

The National Police Chiefs' Council (NPCC) noted an increase in reported hate crime in England, Wales, and Northern Ireland following the referendum – a 58 per cent increase in reported incidents compared to 2015. July 2016 saw the sharpest rise, with levels declining in August, but remaining higher than in previous years.⁵⁹ "Post Ref Racism", an initiative dedicated to sharing experiences and incidences of race hate and xenophobia was established shortly after the referendum. The group released a report arguing that the rise in hate crime following the referendum campaign is "an expression of the 'insiders' vs 'outsiders' rhetoric increasingly prevalent in mainstream politics and the media".⁶⁰ The authors of the report analysed the data submitted to the dedicated Post Ref Racism platform and found that abuse was not limited to Europeans, but could target anyone perceived as "foreign". Nearly a third of incidents were directed at those from Black, Asian, and minority ethnic (BAME) backgrounds. 21 per cent of incidents were directed at Europeans, with 40 per cent of these being aimed specifically at Polish people. Virtually all of the reported abuse happened offline and most of it was verbal abuse (76 per cent).⁶¹ In 51 per cent of the incidents, the referendum was explicitly referred to. This category included phrases such as, "go home", "leave", "we voted you out", and "we're out of the EU now, we can get rid of 'your lot'".⁶² The fact that there has been an apparent rise in hate crime and that the referendum was explicitly referenced in these attacks demonstrates that the nature of the campaign gave licence to those with racist views to openly attack people in public. It is important to emphasize that the majority of people who voted Leave are not bigots and had legitimate reasons for voting the way that they did. However, this does not take away from the fact that the rhetoric encouraged certain individuals to air their frustrations and hatred towards innocent people who were demonized throughout the campaign.

58 Alex Massie, A Day of Infamy, in: *The Spectator*, 16 June 2016, at: <http://blogs.spectator.co.uk/2016/06/a-day-of-infamy>.

59 Cf. NPCC, *Tackling hate crime remains a priority*, 7 September 2016, at: <http://news.npcc.police.uk/releases/tackling-hate-crime-remains-a-priority>; Hannah Corcoran/Kevin Smith, Hate Crime, England and Wales, 2015/16, in: Home Office, *Statistical Bulletin 11/16*, 13 October 2016, at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/559319/hate-crime-1516-hosb1116.pdf.

60 Priska Komaromi/Karissa Singh, *Post-referendum racism and xenophobia: The role of social media activism in challenging the normalisation of xeno-racist narratives*, p. 1, at: <http://www.irr.org.uk/wp-content/uploads/2016/07/PRRX-Report-Final.pdf>.

61 Ibid., pp. 5-6.

62 Ibid., p. 7.

Conclusion

The EU referendum campaign effectively showcased how right-wing populist discourse has been normalized. The rise of populist movements is largely attributable to the fact that established parties have converged in the middle and have become indistinguishable in ideological terms. While it is healthy to debate alternative views and challenge the status quo, especially when it is alienating a large portion of society, it becomes problematic when nativist sentiments are stoked up and blame is appropriated to others. The far-right populist parties across Europe have carefully tried to re-brand themselves away from outwardly neo-Nazi sentiments, and labels such as “populist”, “alt-right”, and “far-right” try to censor the reality. However, the ideals of these groups are still entrenched in white-supremacist, nationalist, and borderline extremist ideologies that set out to divide and polarize societies even further. Tragically, established politicians, such as Boris Johnson and Michael Gove, who campaigned officially for Leave, adopted elements of right-wing populist discourse, such as inflammatory rhetoric, emotional appeals laced with nostalgia, “othering” of immigrants – particularly non-white immigrants – and a disregard for experts and “elitist” opinion, littering their campaign with deception and post-truths instead. Established parties should be very careful not to legitimize and normalize such discourse, as it risks fuelling prejudice and xenophobia from certain quarters of society. Rather, they should speak about issues that are of concern to the electorate, but in a civilized manner that relies on positive emotional appeals combined with facts, and not fear-mongering or othering.

II.

Responsibilities, Instruments, Mechanisms,
and Procedures

Conflict Prevention and Dispute Settlement

The Four-Day War Has Diminished the Chances of Peace in Nagorno-Karabakh

Introduction

The clashes in 2016 at the Nagorno-Karabakh line of contact¹ demonstrated just how fragile the 1994 ceasefire has become in this unresolved territorial conflict. Though the question of who first initiated military activities is still disputed, it appears more likely that this limited offensive was launched by Azerbaijan.² Why should Armenia and Nagorno-Karabakh, the powers that benefit from the status quo, risk such a war? It seems that, on the night of 1-2 April, a number of Azerbaijani brigades stationed near the line of contact attacked positions on Karabakh territory from several directions at once. The Karabakh Armenians and their Armenian backers were caught by surprise and only managed to repel the attack with great difficulty. Against the background of Russia's military involvement in Syria, the conflict in eastern Ukraine, and the deterioration of relations with NATO, the clash was far from convenient for the Kremlin, as it could rapidly destabilize the entire South Caucasus, dragging Moscow into a confrontation with Azerbaijan and Turkey. For that reason, Moscow, which enjoys good relations with both states, immediately began efforts at the highest level to end the conflict quickly.

For the first time since the 1994-95 ceasefire, Nagorno-Karabakh had to accept the loss of a minor amount of territory to Azerbaijan, despite successfully fending off the Azeri attack. This diminutive territorial gain was celebrated throughout Azerbaijan as a first victory. Armenia, by contrast, experienced a series of disappointments in Russia and the Russia-led Collective Security Treaty Organization (CSTO). Moscow was unwilling to explicitly name the original aggressor, and Russia and the other CSTO states provided Armenia with very little public support, whereas Azerbaijan was fully backed in public by Turkey's President Recep Tayyip Erdoğan.

1 The territory of Nagorno-Karabakh consists of the region of Nagorno-Karabakh itself and seven other surrounding regions. It is occupied by the self-defence forces of Nagorno-Karabakh and by Armenian forces. As Nagorno-Karabakh and its surrounding regions are officially part of Azerbaijan, this is not an internationally recognized border, and is thus referred to as the line of contact or line of engagement.

2 Cf. Thomas De Waal, *Dangerous days in Karabakh*, 2 April 2016, at: <http://carnegie.ru/commentary/2016/04/02/dangerous-days-in-karabakh/iwui>; Aleksandra Jarosiewicz/Maciej Falkowski, The four-day war in Nagorno-Karabakh, in: *OSW Newsletter*, 6 April 2016, at: <http://www.osw.waw.pl/print/24257>.

Russia considered itself a mediating power and therefore refrained from public criticism of Azerbaijan.³ Russia's President Vladimir Putin spoke with the presidents of both countries on the telephone and sent Prime Minister Dmitry Medvedev and Minister of Foreign Affairs Sergey Lavrov – the two Russian politicians with the most experience of the region – to their capitals, seeking to bring an end to the dangerous hostilities as rapidly as possible. This led to the presidents of both countries sending the chiefs of their general staffs to Moscow, where on 5 April under Russian mediation, they agreed on a ceasefire based on the earlier ceasefires of 1994-1995. It entered into effect at noon. Thanks to its timely and decisive intervention, Russia had, for the time being, prevented another military conflict in Europe, thereby contributing to security in Europe as a whole.

What Were the Causes of the War?

But who really initiated this brief conflict? And what goals did they have in mind? There have been many rumours. Some have claimed that Russia was ultimately responsible, seeking to demonstrate its dominance in the region following its success in Syria while expanding its influence in the South Caucasus.⁴ Others have alleged that Turkey and its power-hungry President Erdoğan were responsible, or even the USA, as a means to show Russia the limits of its power and to limit Putin's influence in the region.⁵ Yet others have speculated that Azerbaijan believed the time had come to test its increased military strength against Nagorno-Karabakh and gauge the Russian reaction to an attack. After all, the Kremlin was tied up in simultaneous conflicts in Ukraine and Syria, as well as its confrontation with NATO.

There is little evidence to support the first thesis – that Russia was responsible for the war.⁶ Moscow has good relations with both sides and pursues an official policy of balance between Armenia and Azerbaijan. It did not incite Baku to launch this attack, and is certainly unlikely to have encouraged Yerevan. On the contrary, prior to the war, both countries had complained to Moscow about outstanding arms deliveries.⁷ It is highly unlikely that the

3 Cf. *Russia prepared to act as mediator in Karabakh conflict settlement – PM*, TASS, 7 April 2016, at: <http://tass.ru/en/politics/868118>.

4 Cf. Jarosiewicz/Falkowski, cited above (Note 2); Wojciech Górecki, *Nagorno-Karabakh: what is Russia up to?* OSW Newsletter, 13 April 2016, at: <http://www.osw.waw.pl/en/publikacje/analyses/2016-04-13/nagorno-karabakh-what-russia-to>.

5 At least according to Prime Minister Medvedev, cf. *Medvedev says aggravation of Karabakh conflict could be caused by external factors*, TASS, 9 April 2016, at: <http://tass.ru/en/politics/868494>.

6 Cf. Arzu Geybullayeva, *De Waal: Kremlin 'Not Primary Actor' Behind Nagorno-Karabakh Conflict*, Radio Free Europe/Radio Liberty, 4 April 2016, at: <http://www.rferl.org/a/russia-armenia-azerbaijan-nagorno-karabakh-de-waal-kremlin-not-primary-actor/27654309.html>.

7 Azerbaijan appears to have deliberately omitted to pay bills due for Russian arms in order to express its dissatisfaction at the 200 million dollar loan that Russia had made to Arme-

military action was launched by Armenia, as the Armenians appear to have been genuinely surprised. While the war would have served to distract from the poor state of the country's economy, a major military conflict would have been far too expensive for Armenia. Furthermore, if the political leadership had really prepared an attack, mobilizing the necessary reserves, it is unlikely that Armenia would have lost the territory that it did.

In Armenia, criticism of Russia grew considerably as a result of the conflict. There have been open calls for the country to recognize Nagorno-Karabakh and to leave the Russian-led military alliance.⁸ The Armenian leadership itself threatened in public to recognize Nagorno-Karabakh if Azerbaijan should launch a further attack.⁹ Furthermore, leading Armenian politicians have been increasingly vocal in criticizing Russian arms sales to Azerbaijan – not just internally but increasingly also in public.

Was Turkey behind the Azerbaijani offensive? There is little evidence of this, either, even if Ankara would be interested in reducing Russian and Armenian influence in the South Caucasus. Nonetheless, Lavrov has condemned Erdoğan's open support for Azerbaijan as "unacceptable".¹⁰ Ultimately, Turkey is also a member of the OSCE Minsk Group, which mediates between the conflict parties, and would therefore be obliged to show more restraint should hostilities break out. Erdoğan's partisan support for one side would hardly convince the remaining members of the Minsk Group to include Turkey as a mediating power in the future.

The most likely thesis is that Azerbaijan itself was largely responsible for this short war, which it launched as a means of testing its recently acquired military capabilities against Nagorno-Karabakh and Armenia, while gauging Russia's reaction, and simultaneously distracting the domestic population from the drastic decline in government revenue as a result of falling gas and oil prices. The results were mixed. The four-day war showed that the military balance has not shifted significantly in Baku's favour, even if Azerbaijan did make a few symbolic territorial gains. On the other hand, the first territorial gains since the 1990s show that the military balance could further develop in favour of Azerbaijan in the medium term, and this could

nia in mid-2015 for the purchase of Russian weapons. In response, Russia stopped the export of weapons to Baku. At the same time, Armenia complained about bureaucratic "delays" in the implementation of this arms loan deal, which the Russian government had announced in early February 2016. Cf. Joshua Kucera, *Azerbaijan Unable, Or Unwilling, To Pay For Russian Weapons: Reports*, 3 March 2016, at: <http://www.eurasianet.org/node/77646>; and, e.g., *Russian arms delivery to Armenia late "for unknown reasons" – MP*, Pan Armenian Net, 11 April 2016, at: <http://panarmenian.net/m/eng/news/210022>.

8 Cf. Hrant Apovian, *Bitter Lessons Learned: Aftermath of Azerbaijan's Blitz Attack*, Azbarez, 15 April 2016, at: <http://asbarez.com/148859/bitter-lessons-learned-aftermath-of-azerbaijans-blitz-attack>.

9 *Armenian parliament turns down initiative to consider Karabakh recognition*, TASS, 16 May 2016, at: <http://tass.ru/en/world/876004>.

10 *Lavrov says Turkey's statements on Karabakh are calls for war*, TASS, 22 April 2016, at: <http://tass.ru/en/politics/871837>.

soon encourage the regime to undertake a further war. This puts further pressure on Armenia's political leadership.

The security concerns of neighbouring countries in the region have grown as well. Georgia fears that Russia could boost its military presence in the region as a consequence of the war,¹¹ while Iran is concerned that a deterioration of the security situation could lead to the growth of Turkish and Israeli influence upon Azerbaijan.¹²

Russia immediately saw the conflict as an opportunity to extend its influence. The three Co-Chairs of the Minsk Group (ambassadorial-level representatives of the USA, France, and Russia), tasked by the OSCE since 1992 with finding a political resolution to the conflict, were largely sidelined in the process that led to the signing of the new ceasefire agreement in Moscow. Only thereafter did the diplomatic wheels grind into motion, with Russia playing a clever double game. Moscow was able to successfully demonstrate its regional predominance while continuing to hold the door open to the other two Minsk Group Co-Chairs – after all it is one of them and, moreover, it is unlikely to be able to resolve the conflict by itself. In this way, Russia also ensured the continued support of the OSCE.

Shortly after the brief war, Moscow reiterated to both sides its proposal, first made in the 1990s, for the stationing of Russian peacekeeping troops and continued support for efforts to bring about a speedy diplomatic solution. But the two states rejected the offer of Russian peacekeepers for different reasons. Baku feared that the presence of Russian troops would unnecessarily prolong the conflict while increasing Azerbaijan's reliance on Moscow. The government in Yerevan, on the other hand, was at pains to avoid displaying any weakness by accepting further restrictions to its own sovereignty. In addition, the Armenian president rejected new talks on a political settlement until new security guarantees were concluded to improve the situation at the line of contact and the border between the two states in the long run.¹³ This was a reaction to the significant increase in Azerbaijani military activities at the line of contact and the border since 2014, which seeks to pressure Armenia to resolve the conflict politically.

The Armenian government believes that were it to give in to Azerbaijani pressure without receiving such concessions in return, this would send out a dangerous signal. Baku could receive the impression that the military pressure and the four-day war had proven a successful political means of forcing Armenia to back down in the conflict. If it took this path, Yerevan would encourage Baku to undertake further military activities against Na-

11 Cf. *Georgian Defense Minister Speaks by Phone with Armenian, Azerbaijani Counterparts*, Civil Georgia, 4 April 2016, at: <http://civil.ge/eng/article.php?id=29082>.

12 Cf. Nazrin Gadimova, *Tehran says Karabakh conflict to broaden insecurity in region*, 25 April 2016, at: <http://www.today.az/print/news/politics/150079.html>.

13 Cf. Sara Khojayan/Anthony Halpin, *War May Resume at "Any Moment," Armenian President Warns*, Bloomberg, 24 April 2016, at: <http://www.bloomberg.com/news/articles/2016-04-24/caucasus-war-may-resume-at-any-moment-armenian-president-says>.

gorno-Karabakh, which it is precisely the priority of the Armenia government to avoid.

For Azerbaijan, the war brought some initial political and military gains, if only symbolic ones. It gained a small amount of territory while avoiding being branded an aggressor. That reduced interest in a diplomatic solution, albeit for different reasons than in Armenia. Overall, the four-day war has deepened the gulf between the two sides, while heightening tension. It has also made improving diplomatic relations and rapprochement in the short term almost impossible.¹⁴ Russia, the three Minsk Group Co-Chairs, and Germany, which holds the OSCE Chairmanship in 2016, have therefore strengthened their efforts to at least stabilize the fragile ceasefire and prevent the situation from deteriorating further. Before describing and evaluating these intensified diplomatic efforts more closely, we should first turn to the growing asymmetry in military developments, as they have destabilized the military situation in recent years.

Asymmetrical Military Development

The asymmetrical military development of Armenia and Azerbaijan since the middle of the last decade is essentially a consequence of the different economic starting positions of the two countries. Armenia is a poor country, dependent on both Russian economic and military assistance and the remittances of the Armenian diaspora. The economic embargo that Turkey and Azerbaijan have imposed on Armenia since the ceasefire in Nagorno-Karabakh further limits the country's opportunities for economic development and trade. By contrast, Azerbaijan possesses rich reserves of gas and oil, whose prices have risen significantly over the last decade, enabling Baku to sharply increase its military spending since 2005-2006. Since 2011, Azerbaijan's defence outlay, at three billion US dollars annually, is as large as the entire Armenian state budget. Between 2010 and 2015, Azerbaijan increased its defence spending from 2.8 to 4.6 per cent of GDP.¹⁵ Nonetheless, it needs to be borne in mind that Azerbaijan's GDP fell by nearly 30 per cent from 2014 to 2015 as a result of the crash in energy prices. During the same period, Armenia's defence spending varied between 3.8 and 4.5 per cent of that country's far lower GDP, which lay between 9.3 and 11.6 billion US dollars per annum, amounting to total annual defence expenditure of somewhere between 400 and 500 million dollars per year.¹⁶ The asymmetry in defence

14 Cf. Sergei Markedonov, *Unfreezing the Status Quo in the Caucasus*, Carnegie Moscow Center, 15 April 2106, at: <http://carnegie.ru/commentary/?fa=63337>.

15 Cf. Stockholm International Peace Research Institute (SIPRI), *Military Expenditure Database, Military expenditure by country as a share of GDP, 2002–2015*, at: <https://www.sipri.org/sites/default/files/Milex-GDP-share.pdf>.

16 Cf. *ibid*; World Bank, *Armenia GDP (current US\$)*, at: <http://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=AM>. Azerbaijan's GDP rose from 52.9 billion

spending has thus shifted slightly in favour of Armenia, albeit from a position of overwhelming Azerbaijani dominance.

This is also evident in the changing numbers of conventional weapon systems possessed by the land and air forces of both sides. According to the data submitted annually under the Treaty on Conventional Armed Forces in Europe (CFE Treaty), both sides have increased their weapon holdings in certain categories in breach of their treaty ceilings. In 2013-2014, Armenia received over 35 used T-72 tanks and over 110 used armoured combat vehicles from Russia. Most of Armenia's armed forces are equipped with previous generation Russian weapons. In 2016, Armenia possesses 241 armoured combat vehicles, which places it 21 units over its CFE ceilings. However, Yerevan plans to destroy 21 obsolete vehicles in 2017 with German financial assistance, thereby fulfilling its outstanding arms reduction commitments from the 1990s and falling in line once again with its CFE ceiling requirements. In the categories of artillery and combat aircraft, Armenia has slightly reduced its holdings, while the number of attack helicopters has remained constant. The number of troops in both land and air forces has fallen over the same period by some ten per cent.

Armenia's CFE-Relevant Arms Holdings and Troop Numbers 2010-2015¹⁷

Category/ Year	Battle Tanks	Armoured Combat Vehicles	Artillery pieces 100mm+	Combat Aircraft	Attack Helicopters	Troops
2010	110	140	239	16	8	48,570
2011	110	140	239	16	8	48,834
2012	110	140	239	16	8	46,804
2013	109	143	232	16	8	44,787
2014	144	262	232	15	8	ca. 43,600
2015	144	242	232	15	8	ca. 43,700
CFE Ceiling	220	220	285	100	50	60,000

Numbers that exceed CFE ceilings are in italics.

It is important to note that these figures concern only troop and weapon numbers in Armenia itself, and do not include either Armenian troops and weap-

US dollars in 2010 to 75.2 billion in 2014, falling to 35.1 billion in 2016 (estimated) as a result of the collapse in energy prices. Cf. World Bank, *Azerbaijan GDP (Current US\$)*, at: <http://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=AZ>. Cf. also: Stockholm International Peace Research Institute (SIPRI), *Military Expenditure Database, Military expenditure by country, in constant (2014) US\$ m., 2006-2015*, at: <https://www.sipri.org/sites/default/files/Milex-constant-USD.pdf>.

- 17 This data is derived from the annual disarmament reports of the German government, *Bericht der Bundesregierung zum Stand der Bemühungen um Rüstungskontrolle, Abrüstung und Nichtverbreitung sowie über die Entwicklung der Streitkräftepotenziale (Jahresabrüstungsbericht)* [Report by the German Federal Government on the State of Arms Control, Disarmament, and Non-Proliferation Efforts, and Current Force Strengths (German Annual Disarmament Report)]. Cf. *German Annual Disarmament Reports 2013*, p. 171; 2014, pp. 124 and 155; and 2015, pp. 120 and 152.

ons deployed within Nagorno-Karabakh or those belonging to the Nagorno-Karabakh self-defence forces. Around a third of the estimated 23,000 members of the Nagorno-Karabakh self-defence forces consists of members of the Armenian military.¹⁸ However the CFE Treaty does not currently apply in the parts of Azerbaijan around Nagorno-Karabakh that are occupied by Karabakh Armenians.¹⁹ If the arms that Armenia has stationed there were also counted, it is likely that Armenia would not only exceed its CFE limits in the category of armoured combat vehicles, but also in the categories of artillery and battle tanks.

Over the same period, Azerbaijan raised its already significantly higher number of 381 battle tanks by 82, its 425 artillery systems by 371, and its 15 attack helicopters by 33. The number of armoured combat vehicles fell slightly from 181 to 179, and the number of combat aircraft more sharply, from 75 to 54, as a result of problems the Azerbaijani forces had with maintaining and operating too many different aircraft models. The number of troops in the Azerbaijani land and air forces combined remained steady at about 64,900. Azerbaijan's armed forces have thus received significantly more arms than those of Armenia. Furthermore, in the form of 100 T-90 tanks and BMP-3 infantry fighting vehicles, Azerbaijan has received the latest generation of arms from Russia, and is thus not only quantitatively but also qualitatively much better equipped than Armenia.

*Azerbaijan's CFE-Relevant Arms Holdings and Troop Numbers 2010-2015*²⁰

Category/ Year	Battle Tanks	Armoured Combat Vehicles	Artillery pieces 100mm+	Combat Aircraft	Attack Heli- copters	Troops
2010	<i>381</i>	181	<i>425</i>	75	15	64,850
2011	<i>381</i>	181	<i>469</i>	79	26	64,964
2012	<i>381</i>	181	<i>516</i>	79	27	64,990
2013	<i>381</i>	181	<i>516</i>	88	27	64,999
2014	<i>484</i>	134	<i>624</i>	53	27	ca. 64,900
2015	<i>463</i>	179	<i>796</i>	54	48	ca. 64,900
CFE Ceiling	220	220	285	100	50	70,000

Numbers that exceed CFE ceilings are in italics.

18 Cf. Annual Disarmament Report 2013, cited above (Note 17) p. 134.

19 In Azerbaijan, however, a different view has prevailed since 2001. Baku has given several locations within the Azerbaijani territory controlled by Karabakh Armenians as the peacetime locations of its troops. Since troops can only be inspected at their peacetime locations, the troop contingents registered in those locations are not covered by the Treaty's verification system and cannot be checked. This course of action on the part of Azerbaijan is also equivalent to Armenia's removal of its troops from the CFE Treaty provisions by stationing them in Nagorno-Karabakh. Through their actions, both states weaken the CFE Treaty.

20 Data from German annual disarmament reports, cited above (Note 17).

We can see that Azerbaijan has exceeded severalfold its CFE ceilings in the categories of battle tanks and artillery systems. Baku justifies these major infringements with reference to the fact that Armenia has stationed a major proportion of its forces in Nagorno-Karabakh and received secret arms deliveries from Russia during the 1990s that remain unregistered to this day. What is true is that Armenia has not registered all its weapon shipments, and that this contributes to regional insecurity. However, the same applies to Azerbaijan. A brief glance at the UN Register of Conventional Arms²¹ is enough to show that the exact numbers of arms deliveries to both countries tend not to be notified by the countries themselves but are more likely to come from the exporting nations. Nevertheless, this does not serve to justify Azerbaijan's exorbitant increase. This needs rather to be seen in terms of Azerbaijan's military doctrine, which was revised in 2010 and now both envisages the recapture of the occupied territories and defines Armenia as Azerbaijan's main enemy.²²

The figures on arms shipments to both states from 2010 until 2015 give a similar picture, as the following tables show. Between 2010 and 2015 Armenia took delivery of 35 tanks, 110 armoured combat vehicles, 16 artillery systems, and two light training aircraft. The weapons came from Russia, Ukraine, and Montenegro. Yerevan is also said to have bought multiple rocket launchers from China in 2011, but there is no official confirmation of this.

*Arms Deliveries to Armenia 2010-2015*²³

Category/ Year	Battle Tanks	Armoured Combat Vehicles	Artillery pieces	Combat Aircraft	Attack Helicopters
2010			16	2 trainers	
2011					
2012					
2013	35	110			
2014					
2015					
Total	35	110	16	2 trainers	

Over the same period, Azerbaijan received 193 tanks, 446 armoured combat vehicles, 738 artillery systems, seven combat aircraft, and 26 attack helicopters from Russia, Belarus, Ukraine, Turkey, South Africa, Israel, and Bosnia and Herzegovina. From 2011-2015, Azerbaijan's largest supplier, Russia, alone delivered arms and equipment worth four billion US dollars, amounting

21 Cf. *The Global Reported Arms Trade. The UN Register of Conventional Arms*, at: <http://www.un-register.org/HeavyWeapons/Index.aspx>.

22 Cf. Annual Disarmament Report 2013, cited above (Note 17) p. 134.

23 Data taken from the UN Register of Conventional Arms, cited above (Note 21).

to 4.9 per cent of the country's arms exports.²⁴ From 2006-2010, the equivalent figure was a far lower 0.7 per cent.

*Arms Deliveries to Azerbaijan 2010-2015*²⁵

Category/ Year	Battle Tanks	Armoured Combat Vehicles	Artillery pieces	Combat Aircraft	Attack Helicopters
2010		106	57	1	1
2011	31	208	95	5	4
2012	62	14	18	1	8
2013	10	10	438		13
2014	65	78	118		
2015	25	30	12		
Total	193	446	738	7	26

These arms deliveries have been made despite an OSCE Decision of 28 February 1992 calling for an embargo on sales of arms and military equipment to both countries as a means of supporting the ceasefire.²⁶ The states that have denied this embargo have done so for various reasons. Russia supplies arms in order to protect its influence in Azerbaijan; Ukraine and Bosnia and Herzegovina seek to earn much needed foreign currency; Turkey wants to expand its influence, and Israel to maintain the option of using Azerbaijani air bases to destroy Iranian nuclear facilities, in case the 2015 nuclear deal should collapse.

The volume of weapons delivered to Azerbaijan is also significantly higher than the increase in arms deployed with forces as notified under the CFE Treaty. For example, Azerbaijan imported 193 tanks in the observation period, though notification was only given for 82 deployed with troops. There could be many reasons for this. It could, for instance, be the result of a large number of older tanks being decommissioned, but it could also indicate that Baku has been having serious problems in training military personnel in the maintenance and use of the new weapons, which has caused considerable delays in their deployment. As a result, Azerbaijan was not able to make use of the better quality and numerical superiority of its weapons in the four-day war. Russia, the major arms exporter to both sides, is determined to maintain its sales despite the growing risks and criticism. Furthermore, Moscow and Yerevan began to create a "United Group of Troops" in Armenia in Decem-

24 Cf. Aude Fleurant/Sam Perlo-Freeman/et al., *Trends in International Arms Transfers 2015*, SIPRI Fact Sheet, February 2016, p. 3, at: <http://books.sipri.org/files/FS/SIPRIFS1602.pdf>.

25 Data taken from the UN Register of Conventional Arms, cited above (Note 21).

26 Cf. CSCE, *Seventh Meeting of the Committee of Senior Officials, Prague 1992, Journal No. 2*, Prague, 28 February 1992, at: <http://www.osce.org/resources/183791>. As the decision applies only to CSCE/OSCE participating States, it does not apply to Israel and South Africa.

ber 2016 to deter potential aggressors more effectively.²⁷ However, this also allows Moscow to keep a closer check on Armenian forces, in case Yerevan plans an attack of its own.

Intensified Diplomatic Efforts

In 1999, the then presidents of the two republics were very close to resolving the conflict, but an armed attack on the Armenian parliament by opponents of the proposed deal derailed the process. In view of these dramatic events, subsequent Armenian presidents have been even more cautious, and their freedom to negotiate has been limited by domestic factors. To this must be added that the current Armenian president, Serzh Sargsyan, was born in Stepanakert, the largest city in Nagorno-Karabakh, which makes him deeply mistrustful of the efforts of the Azerbaijani president, Ilham Aliyev, to make peace. The two foreign ministers, Edward Nalbandian of Armenia and Elmar Məmmədyyarov of Azerbaijan, are also said not to have the best relationship. The four-day war of April 2016, for which Azerbaijan is primarily responsible, is unlikely to have increased confidence in Yerevan and Stepanakert. The prospects for a rapid improvement of the situation are thus not favourable. That is why Armenia is demanding a renewed commitment to refrain from the use of military force and improvements in the security situation on both sides of the border and at the line of contact with Azerbaijan before it is willing to enter into further discussions or make additional concessions.²⁸ In the meantime, there has been no let up in the almost daily exchanges of fire, for which each side holds the other responsible.²⁹

Russia and the three Co-Chairs of the Minsk Group have therefore increased their efforts to stabilize the fragile ceasefire as a means of bringing about a political settlement to the Nagorno-Karabakh conflict more rapidly.³⁰ On 12th May, a meeting was arranged for the 16th between the three foreign ministers of the Minsk Group Co-Chairs and the two presidents in Vienna. All participants agreed to reaffirm the 1994/1995 ceasefire and to work towards a peaceful resolution to the conflict. Armenia consequently withdrew its threat of granting official recognition to the Nagorno-Karabakh entity. Two additional confidence-building measures were planned in parallel with the aim of stabilizing and improving the fragile border situation: First, an OSCE mechanism for the investigation of the many military incidents at the

27 Cf. *Russia and Armenia seal deal to create United Group of Troops*, TASS, 30 November 2016, at: <http://tass.com/defense/915668>.

28 Cf. *German foreign minister names conditions for de-escalation of Nagorno-Karabakh conflict*, TASS, 6 April 2016, at: <http://tass.ru/en/world/867800>.

29 Cf. OSCE, Press Release, *Statement by the Co-Chairs of the OSCE Minsk Group*, Moscow/Paris/Washington, 9 January 2017, at: <http://www.osce.org/mg/292991>.

30 Cf. *Co-Chairs Condemn Civilian Attacks, No Agreement After Regional Visit*, Asbarez, 9 April 2016, at: <http://asbarez.com/148524/co-chairs-condemn-civilian-attacks-no-agreement-after-regional-visit>.

border is to be finalized as soon as possible, and second, the Tbilisi-based office of the Personal Representative of the OSCE Chairperson-in-Office, Andrzej Kasprzyk, is to be strengthened in order to carry out additional inspections. The office is responsible for the on-site inspections carried out on both sides of the line of contact every 14 days. It was finally agreed that data exchange on missing persons under the auspices of the International Committee of the Red Cross could continue as before. The next meeting was scheduled for June 2016.³¹

Since then, lively discussions have been ongoing with both sides in the OSCE and the Office of the Personal Representative to work out how these measures should be implemented. In early June, the three Co-Chairs presented their initial proposals to the two sides and it was agreed to hold a trilateral summit with Putin and the two presidents in St Petersburg on 20th June. Progress was made at the summit, but there was no breakthrough. In a trilateral statement, the two presidents accepted the basic need for more OSCE observers to monitor both sides of the line of contact as well as the conditions that would apply to further talks, if it proved possible to hold them.³² Less progress was made on the mechanism for the investigation of incidents at the contact line, as Azerbaijan would like to tie this mechanism to the removal of Armenian troops from the other seven occupied districts of Azerbaijan around Nagorno-Karabakh.³³ For its part, Armenia does not wish to open negotiations on a final settlement of the conflict until after the establishment of an OSCE investigation mechanism at the line of contact.³⁴

Details of the OSCE investigation mechanism and the modalities for raising the number of observers and on-site inspections have been under discussion ever since. On 22nd September 2016 in New York, the Co-Chairs of the Minsk Group could only meet the two foreign ministers separately to discuss proposals on how to proceed. This was to be built upon by a visit to the region by the Co-Chairs in late October, and continued at the Ministerial Council Meeting in Hamburg on 8th December. However, the 3+2 meeting planned for Hamburg did not take place, as the Armenian foreign minister failed to show up.³⁵ As announced in Hamburg, the talks should be shifted to presidential level as soon as possible to maximize the chances of progress.

31 Cf. *Joint Statement of the Minister of Foreign Affairs of the Russian Federation, Secretary of State of the United States of America, and State Secretary for European Affairs of France*, 16 May 2016, at: <https://2009-2017.state.gov/r/pa/prs/ps/2016/05/257278.htm>.

32 Cf. President of Russia, *Meeting with Serzh Sargsyan and Ilham Aliyev*, St Petersburg, 20 June 2016, at: <http://en.kremlin.ru/events/president/news/52189>.

33 Cf. President of Russia, *Meeting with President of Azerbaijan Ilham Aliyev*, St Petersburg, 20 June 2016, at: <http://en.kremlin.ru/events/president/news/52188>.

34 Cf. President of Russia, *Meeting with President of Armenia Serzh Sargsyan*, St Petersburg, 20 June 2016, at: <http://en.kremlin.ru/events/president/news/52187>.

35 Cf. OSCE, Press Release, *Statement by Co-Chairs of OSCE Minsk Group*, Vienna, 24 June 2016, at: <http://www.osce.org/mg/248616>; OSCE, Press Statement, *Statement by Co-Chairs of OSCE Minsk Group*, New York, 22 September 2016, at: <http://www.osce.org/mg/266881>; OSCE, Press Release, *Statement by the Co-Chairs of the OSCE Minsk Group*, Moscow/Washington, D.C./Paris, 26 October 2016, at: <http://www.osce.org/mg/277091>;

In view of the growing risk of a new war, the urgency to make rapid political progress to resolve the Nagorno-Karabakh conflict should be greater than ever, yet both sides remain trapped in their old confrontational positions. The three Co-Chairs of the Minsk Group and other OSCE institutions are not to blame for this; with support from Russia, they have sharply intensified their activities in recent years. Establishing an OSCE mechanism for the investigation of military incidents at the border and improving on-site conflict monitoring would be further ways to build confidence between the sides. Some progress has been made in the negotiations on these issues, but no breakthrough is in sight. Yet for Armenia, these two measures are the key precondition for serious negotiations. Equally, Azerbaijan fears that if Armenia achieves this goal, it will then let up and hang on to the new status quo. Baku has therefore made its support for the investigation mechanism provisional upon the return of the first occupied territories.

And yet the key elements of a potential political compromise have been clear since 1999. Nagorno-Karabakh proper would remain in Armenian hands at first, until a referendum is held to decide its ultimate fate. In return, Armenia and the Karabakh Armenians would evacuate all the other occupied territories around Nagorno-Karabakh, returning them all to Azerbaijan, with the exception of the Lachin corridor. At the same time, a direct connection would be established through Armenia between Azerbaijan and the Azerbaijani exclave of Nakhichevan. Internally displaced persons could return to the areas where they had formerly lived. An OSCE peacekeeping force of up to 3,000 would further safeguard this peaceful compromise during an interim period. Of course, the devil is in the detail, but if both sides really possess the political will to find a solution, that should not pose a problem.

If there is to be any progress at all, it is currently only possible via contacts between the presidents of the two conflict parties. In the long term, this is a flimsy foundation for a stable and lasting peace process. A genuine peace process needs lasting broad political and societal support. In this regard, it is regrettable that in Azerbaijan, as in Russia, foreign financial support for NGOs has been forbidden by law since 2014.³⁶ Voluntary peace activists in Baku, who used to meet with Armenians and Karabakh Armenians in Georgia or Turkey to search for new forms of co-operation can now no longer afford to do this. In Azerbaijan, the existence of Nagorno-Karabakh and its population, as well as its special status in the negotiations, are not publically acknowledged, even though Baku has to share responsibility for this. Steps

OSCE, Press Statement, *Joint Statement by the Heads of Delegation of the OSCE Minsk Group Co-Chair Countries*, Hamburg, 8 December 2016, at: <http://www.osce.org/mg/287531>.

36 Cf. Friedrich Schmidt, Einsamer Mahner in den Bergen des Kaukasus [Lonely Admonisher in the Caucasus Mountains], in: *Frankfurter Allgemeine Zeitung*, 4 October 2016, p. 5.

towards changing this attitude could build confidence in Yerevan and Stepanakert. Yet Armenia also has to be willing to shift its position; in the past it has too often rested on the status quo. A serious diplomatic signal that it is willing to peacefully return the seven districts around Nagorno-Karabakh is necessary. If nothing of this kind is done, Azerbaijan will soon attempt to recapture this territory by force once again.

Supporting Reform, Dialogue, and Crisis Response in Ukraine

The mandate of the Project Co-ordinator in Ukraine (PCU) – to promote OSCE principles and commitments in partnership with Ukrainian institutions – has been constant since its establishment in 1999, but the nature of our work has undergone a sea change with the Euromaidan revolution and the conflict in and around Ukraine.

Since 2014, the PCU's unified budget has grown by about a quarter, to 3.6 million euros, while our staff remains a modest 50 people, including just three internationals, but our effectiveness in terms of strengthening Ukraine's adherence to OSCE commitments has grown many fold.

I attribute this to three factors, summarized below and elaborated further in this article.

First, Ukrainian institutions are themselves pushing for change. The reform agenda is difficult and complex, but in many areas, some of which I will detail below, it can be a challenge for international actors to keep pace with reformers inside the government. The PCU's approach, dictated by its mandate, of only implementing projects that have been requested by Ukrainian partners, has at times been seen as limiting. Yet, over the past two years, it has also proven to be an asset, as it allows us to address priorities and fill gaps identified by the partners themselves.

Second, we have set strategic objectives to:

1. support sustainable reforms,
2. promote dialogue,
3. contribute where possible to the OSCE's conflict response, and
4. support efforts by other international actors and OSCE institutions in meeting the first three objectives.

Without explicit objectives, the nature of the OSCE's comprehensive approach to security and the PCU's broad mandate might militate against focused programming. Yet setting objectives allows the PCU to be more strategic in choosing areas of intervention and in communicating what is and is not considered effective programming to partners, while preserving the ability to work across the breadth of the three dimensions.

Third, we have restructured our office. Programme managers, all of whom are Ukrainian, have been empowered to identify opportunities and propose responses of greatest impact. Programme evaluation is being strength-

Note: The views contained in this contribution are the author's own.

ened, and, in the near-future, we will enhance our public communications by adding social media and increasing Ukrainian-language communications material.

Helping Partner Institutions Meet OSCE Commitments

The PCU's mandate requires that projects be designed in co-operation with local partners and approved by the host country prior to implementation. Without this request and approval process, a project cannot begin, and these requirements, which apply to the PCU and other field missions with similar mandates, can thus be seen as restrictive. However, in Ukraine's current environment, I view this largely as a healthy mechanism that guarantees local buy-in, ensures that the PCU's programming meets the needs of partners, and reduces the risk of duplication, all within the framework of strengthening adherence to OSCE commitments.

Our budget is relatively small compared to those of other international organizations, but this has several advantages. First, we promote long-term partnerships. With institutions ranging from the ministry of education to the state emergency service, these relationships span more than a decade and will likely continue as long as the PCU exists. Second, our funding is flexible. Within a project's objectives and expected results, we are always ready to modify activities to better match needs. Third, we don't need to claim ownership for results, but can rather take pride in supporting those who do.

Several project areas illustrate this relationship:

- *Civil Society:* The PCU's approach to civil society has always stressed strengthening the enabling environment rather than providing direct support to NGOs. In 2014, we focused on helping the State Registration Service streamline the registration of NGOs.

In 2015, a new opportunity emerged to support the development of a civil society strategy initiated by the Presidential Administration in collaboration with a group of civil-society organizations. Using the flexibility of unified-budget funding, and responding to requests by local partners, we reoriented our approach. Part of the revised approach included familiarizing a government-civil society working group with the approach of other post-Communist countries, most notably Croatia, which see such strategies as critical to a sustainable shift from authoritarianism to democracy. We also supported a series of regional seminars to allow NGOs and government officials across the country to contribute their ideas.

The result of this combination of international experience and broad local consultations has been a new strategy, approved by the President in 2016, which encompasses several mechanisms, including a

development fund, overseen jointly by civil society and government officials, to promote the development of the third sector. Following the strategy's endorsement, the PCU is supporting its realization.

- *Police:* In 2015, the ministry of the interior embarked on police reform, giving clear indications that it was committed to providing quick wins in a highly visible and critical area of state-society relations. Many international organizations had difficulty matching the government's pace, including the PCU, which had not specifically planned on supporting police reform in its unified budget for that year. However, we were able to reorient support for countering human-trafficking and gender-based violence into training for 9,000 police patrol officers. As trainers were entirely Ukrainian nationals, and as the OSCE already had an established approach to these topics, the training fitted within a modest unified-budget project.

In 2016, we are broadening our support for police reform, taking on full responsibility for the education of the cyber-police and anti-trafficking police, who provide critical responses to growing challenges throughout the OSCE region, and of 15,000 neighbourhood police, whose task is to strengthen community security and co-operation between state and citizen.

- *Demining:* Since 2006, the PCU had been helping Ukraine deal with the legacy of World War II munitions and Soviet-era stockpiles by training and equipping government deminers and supporting the education of children about the hazards of explosives. This work positioned the PCU well to reorient and respond quickly to the new hazards resulting from the current conflict.

Most notably, the PCU shifted its assistance from supporting capacity-building for emergency response to helping the Ukrainian government prepare for large-area humanitarian demining. To illustrate, in peacetime, the State Emergency Service responds to calls from individuals who believe they have found an explosive remnant of war. Now, this service, together with the ministries of defence and infrastructure and international NGOs, are working together to survey and clear many thousands of hectares.

The PCU provided international expertise to a draft law on mine action, and will support the development of a new institutional framework to allow for co-ordinated mine action. We helped introduce a digital map that is critical for tracking the survey and clearance of mines and unexploded ordnance. And we are propagating international mine standards through training and seminars. At the same time, we have curtailed our support for mine-risk education, as this was quickly taken up by several international NGOs and UNICEF.

- *Chemical Safety and Security:* The threats and risks of unauthorized use of chemicals or attacks against chemical installations pose a serious

challenge to security, the economy, health, and the environment in Ukraine, especially under the current circumstances. The concern is that the unstable security situation increases the threats of misuse of toxic chemicals and attacks against chemical plants, transportation of dangerous goods, and energy carriers.

In response to this, in 2015 the OSCE commissioned the Comprehensive Review of Chemical Safety and Security in Ukraine. The Review revealed major gaps and shortfalls in the level of Ukraine's preparedness for potential chemical security risks. The next step was to develop projects targeting specific areas, and improve the overall national system of preparedness for chemical safety and security threats. The key areas of our involvement are improving the legislative and regulatory basis for safe and secure management of chemicals, increasing awareness of chemical safety and security, and strengthening enforcement capacities to control cross-boundary movement of hazardous chemicals

Objective-Setting

Every OSCE mission and institution sets programme objectives each year, and, below each objective, details expected outcomes and outputs. This is indisputably a good practice; however, there is a fundamental challenge in setting sound objectives given the breadth of the OSCE's goals, which began with the Decalogue and have since expanded with each new set of commitments. The PCU's mandate, to implement projects that "may cover all aspects of OSCE activities"¹ in co-operation with relevant authorities, is equally broad. This is not to say a broad mandate is inappropriate. On the contrary, it underscores the fundamental principle that security requires a comprehensive approach, and has allowed the PCU to evolve over 17 years, without changing a word of the mandate. But it does not provide much guidance for setting objectives and subsequently prioritizing programming.

To address this, I set three cross-cutting goals in 2016, after broad consultations with Ukrainian stakeholders and participating States:

First, the PCU should help the government implement reforms that strengthen its OSCE commitments. This means we should look for projects that support new areas of reform, rather than merely providing support to ongoing activities. To take an example, which is elaborated further below, we are shifting from conducting human-rights advocacy events to helping the Ministry of Education inculcate a human rights-based approach in schools.

¹ Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 295*, PC.DEC/295, 1 June 1999, at: <http://www.osce.org/pc/29031>; *Memorandum of Understanding between the Government of Ukraine and the Organization for Security and Co-operation in Europe (OSCE) Concerning the Creation of a New Form of Co-operation*, Vienna, 13 July 1999, Article 1, at: <http://www.osce.org/ukraine/37928>.

Second, we should promote dialogue among various sectors of society. In addition to our explicit dialogue programming, we are also emphasizing public consultations and interchange between various actors across our projects.

Third, we will assist in the overall response to the crisis in eastern Ukraine. The Special Monitoring Mission (SMM) is of course the lead OSCE entity operating in the east of the country. At the same time, there is need and opportunity for a range of programming, ranging from mine action to helping former combatants safely return home.

A fourth goal was implicit, and will be added in 2017: to align and coordinate whenever possible with other OSCE offices and international donors and organizations.

As one of many OSCE actors, the PCU is trying to re-emphasize a key phrase in its mandate by not only conducting its own projects, but also assisting with other efforts “involving the OSCE, its institutions and the relevant Ukrainian authorities”.² What does this mean in practice? It translates into increased consultation with OSCE institutions and structures, so that we can better align our office’s programming with their work in Ukraine. As a small example, the PCU houses representatives of the High Commissioner on National Minorities (HCNM), the Office for Democratic Institutions and Human Rights (ODIHR), and the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEE) in our office; and we provide administrative support to election observation missions. In 2014, the PCU played a key role in resolving the logistical and administrative issues that allowed the SMM to launch without delay.

We have also increased our consultations with other international partners, such as the Council of Europe (CoE) and the United Nations (UN), and have signed memoranda of understanding with several of them to formalize our co-operation. Within our office, I have asked all our officers to include information on how their projects intersect with the efforts of others, to help ground general pledges of co-operation in our day-to-day work.

These four objectives have been met with support from Ukraine and other participating States. While they are admittedly still broad, making them explicit provides a framework for selecting and evaluating activities, communicating with our partners and providing guidance to PCU’s project officers.

Some examples may serve to illustrate:

- *Dialogue*: Following Euromaidan, the OSCE set a goal of promoting dialogue. In March 2014, two efforts were launched concurrently: A

2 Ministry of Foreign Affairs of Ukraine, *Participation of Ukraine into the activities of the Organization for Security and Co-operation in Europe*, at: <http://mfa.gov.ua/en/about-ukraine/international-organizations/osce>.

“National Dialogue” project run by the PCU, and the SMM, whose mandate explicitly includes dialogue facilitation to reduce tensions.

Dialogue is considered by many to be critical to reducing tensions. Aside from the explicit mentions of dialogue in the SMM’s mandate, the UN also notes that “of particular importance is the notion of trust building and reconciliation; bringing various groups together to overcome differences and grievances through dialogue.”³

The PCU’s work in the area of dialogue touches upon all four objectives. First, it explicitly promotes an exchange of views about the government’s reform agenda, in partnership with the National Reforms Council under the President of Ukraine. Periodic dialogue forums in government-controlled areas of Donetsk and Luhansk oblasts give communities in areas affected by the conflict an opportunity to voice their priorities for reform and allow central government officials to explain their vision and approach. At the same time, capacity-building has helped the Ukrainian National Reforms Council to better communicate its vision and incorporate the views of the general public into the reform agenda.

In addition to our direct programming, the PCU has taken the initiative in providing a platform for co-ordinating the actions of other international organizations and NGOs engaged in dialogue promotion, and we will soon be working with others to establish a set of voluntary principles for assistance providers in the area of dialogue.

- *Media:* The OSCE Representative on Freedom of the Media (RFOM) is a unique advocate among international organizations, and as part of our effort to align with other OSCE institutions, the PCU has taken up the Representative’s call to improve the safety of journalists.

In 2015, the PCU provided international hostile-environment training for 85 combat journalists, and supplied each of them with a trauma kit. In a follow-up survey, participants working in the conflict area said they directly applied lessons from the training in emergency situations to minimize risk to themselves and others. A notable aspect of the training was the provision by the Ukrainian ministry of defence of training facilities, equipment, and personnel, which helped to make the training as realistic as possible. The PCU will work with the ministry to enable it to continue to offer affordable training courses of this kind to Ukrainian journalists in the future.

The PCU has also supported dialogue between journalists and the various branches of state security, including the police, the armed forces, and the state security service (*Sluzhba Bezpeky Ukrayiny*, SBU).

3 United Nations Ukraine/European Union/The World Bank, *Ukraine: Recovery and Peace-building Assessment. Analysis of Crisis Impacts and Needs in Eastern Ukraine*, Volume II, Full Component Reports, March 2015, p. 111, at: http://www.un.org.ua/images/UKR_RPA_Volume_II_Component_Reports_FINAL_for_PDF_04_17__15.pdf.

In 2014, we conducted a series of dialogues between police and journalists on behaviour at mass events. This promoted mutual understanding of the police's need to protect and journalists' need for access, and elaborated on several tricky issues, such as the sometimes thin line between journalists and activists in the age of social media.

In 2015, the PCU provided training to brigade commanders on journalists' rights, at the request of the ministry of defence; and in 2016 we began working with the SBU to help them conduct their relations with journalists on the basis of respect for international norms and commitments on freedom of speech.

In addition to promoting the safety of journalists, we have also helped them to improve their contribution to community security and conflict resolution through propagating principles of conflict sensitivity. By avoiding stereotypes and divisive language, journalists can help build peace while improving their professionalism.

- *Former Combatants:* For around ten years, the PCU assisted the ministry of social policy in helping retired military personnel adjust to civilian life, primarily through vocational training. With the outbreak of conflict, Ukraine now has large numbers of combat veterans for the first time in 70 years. The needs of former combatants vary from the original target group of career military personnel in several ways. First, most are seeking to return to their former lives and jobs, so the need for vocational training is less. Second, many have lingering psychological needs that may manifest in behaviour that makes them a danger to themselves and to those around them.

To reorient its approach, the PCU worked with the ministry of social policy and the armed forces in 2015 to train psychologists in working with stress disorders, based on the experience of OSCE Partner State Israel, which, as is well known, has decades of relevant experience as well as a pool of psychologists who had emigrated from the former Soviet Union. In 2016, the PCU is engaging in more systemic activities to help the ministry to develop a comprehensive approach to reintegration of former combatants, with a particular focus on the threat of gender-based violence. Thus, the PCU is switching from support for ongoing job training to supporting reintegration in other ways, including conducting research, supporting expertise, and holding policy dialogue.

- *Human Rights and Legal Education:* The PCU has helped the ministries of justice and education promote legal and human-rights education for about a decade. However, in the past two years our emphasis has shifted from sponsoring activities to helping the ministries and academic institutions to inculcate new approaches aligned with international standards.

Beginning in 2014, the PCU has been helping law schools shift to a standards-based approach from one based on a list of subjects. While

this may sound like a technical change, it is seen by education and legal professionals as fundamental to raising the quality of the legal profession. Currently, to graduate, law students are required to complete all their courses, but there is no overall check of their skills or knowledge. This in turn means that law schools have little incentive to provide a high-quality education, as each school determines for itself whether its students are qualified.

Shifting to a set of unified standards means that law schools will have greater latitude in deciding how and what they teach, while subjecting all their varied approaches to a standardized test of quality. One school might emphasize classroom time, while another focuses on self-study. Both approaches would be welcomed, as long as they produce high-quality graduates. The PCU is also helping to introduce standardized entrance exams for law students, and is helping the ministries develop a long-term strategy for further reform of legal education.

In addition, the OSCE is helping the ministry of education to introduce human-rights based education in Ukraine's schools. In the past, the PCU's intervention tended to focus on supporting "Human-Rights Day" type events. Now, with roughly the same level of effort, we are promoting a sustainable policy that will affect youth across the country.

Restructuring

Behind the scenes, the PCU has undergone several organizational reforms to increase its efficiency and responsiveness, allowing us to do more with our budget and mandate.

The first step was to create new programme manager positions. Before 2016, the PCU had programmes, but in reality they were little more than baskets of activities, with only a single person, the senior project officer, answerable for objectives and outcomes across the entire range of programming.

Now, each programme manager is responsible for the objectives and outcomes outlined in the unified budget, and has more latitude to propose and adjust projects accordingly. By empowering programme managers who have a deep understanding of their topic area, and by using the four strategic objectives of our office, we are already seeing smarter, more effective interventions.

At the same time, we reviewed and reduced the number of objectives and outcomes in our unified budget by more than half in 2016, so that each programme has one, or at most two high-level objectives.

To further sharpen the focus on objectives and outcomes, we added a dedicated evaluation officer, one of the few in any field mission, whose job is to coach project staff in refining their activities and data collection to demon-

strate outcomes. We likewise built external, independent evaluations into flagship projects on demining and dialogue; these are the first to be commissioned in the history of our office.

In addition, we rewrote the job descriptions for all project officers so that they essentially match the lifecycle of a project, as described in the OSCE project management manual, to underscore that project management is not only about implementing activities, but also about evaluation, which in turn supports the identification and design of subsequent projects.

Our next challenge is to improve our public communications. Until recently, the PCU has not emphasized public communications – we don't, for example, have a dedicated communications officer. However, two things have changed recently. First because of the prominence of the SMM, the OSCE has become a household word in Ukraine. However, media coverage generally and understandably focuses on a narrow slice of what the OSCE is and does, undermining understanding of the OSCE's core principle of a comprehensive approach to security. Thus, by promoting the full spectrum of the PCU's activities, we hope to promote the multi-dimensional nature of OSCE's work. Second, participating States, including Ukraine, have asked us to improve our public communications to better realize the value of transparency, which we constantly promote in our programme work, also within our organization.

We are currently formulating a strategy for communications, but it is safe to say there will be several elements. First, we should take fuller advantage of existing channels, by, for example, improving website content and updating factsheets. Second, we should better emphasize results, shifting where possible from reports that begin "a conference was held ..." to highlighting what was achieved. Third, we have established a social-media presence on Facebook, and are considering Twitter, to promote engagement and dialogue, rather than monologue.

The PCU still has much work to do. Our programming can be made more effective; our strengthened approach towards evaluation is still in its infancy; and our efforts to improve public communication are even newer. But I believe that by establishing objectives, committing to improved evaluation, and being open to constructive criticism we will better fulfil our mandate and come closer to living up to the high expectations placed on us by participating States and Ukrainian society.

Between Strategic Re-orientation and Operational Fixes: Current Challenges and Opportunities in Strengthening Early Warning and Early Action as Part of OSCE Crisis and Conflict Prevention

The evolution of politically-binding commitments goes hand in hand with the changing historical context in which they occurred.¹

Introduction

Early warning and early action have been promoted worldwide as key aspects of a proactive foreign and security policy agenda since the early 2000s. Against the background of the sharp rise in regional conflicts in the Western Balkans, the South Caucasus, as well as western and central Africa during the 1990s, this development is representative of an enhanced focus in foreign policy thinking on the early prevention of conflicts. Given the disastrous humanitarian, economic, and (geo-)political consequences of violent conflicts, the attempt to identify unstable situations that could lead to the outbreak of violent conflict and fuel escalation spirals and to act to counter them as early as possible characterizes the approach of a wide range of international, regional, and national actors nowadays. One of the central elements in the political and economic debate on the added value of early warning is based on one of the oldest arguments for conflict prevention, namely that it offers more cost-effective instruments for long-term conflict management.² According to this logic, early warning is an important step towards the development and implementation of conflict prevention measures. In view of the growing number and complexity of factors that can cause conflicts, it appears certain that managing the many aspects of conflict prevention is now far beyond the ability of individual nation states. It is therefore hardly surprising that the institutionalization of early warning, which requires a high degree of integration of all kinds of executive bodies and authorities, correlates to a high degree with the global rise of regional security organizations. Today, the most important linkage between early warning and early action is not at the level the nation state but has gradually matured into a major aspect of the work of regional security organizations. Despite numerous differences and distinctive features, the early-warning systems of the European Union (EU), African

1 OSCE Secretariat, Conflict Prevention Centre, Operations Service, *The OSCE Concept of Comprehensive and Co-operative Security. An Overview of Major Milestones*, SEC.GAL/100/09, Vienna, 17 June 2009, p. 1, at: <http://www.osce.org/cpc/37592>.

2 Cf. Gareth Evans, Cooperative Security and Intrastate Conflict, in: *Foreign Policy*, 96 (Fall 1994), pp. 3-20.

Union (AU), and the Organization for Security and Co-operation in Europe (OSCE) – not to mention subregional organizations such as the Economic Community of West African States (ECOWAS) – are characterized by a highly methodologized understanding of early warning as a political instrument for the appropriate, early, and context-specific development of options for political action. Overall, early warning in this sense is understood as a political and operational mechanism that

1. is focused on the systematic gathering and analysis of information from potential crisis regions;
2. organizes and evaluates this information using global and regional experience, e.g. indicator lists;
3. develops recommendations for early intervention by exploring options for action, inputs these into the decision-making processes of responsible institutions and actors, and prepares them for application.³

This three-step process from early warning to early political and operational action also characterizes the OSCE's current approach. It reflects a fundamental shift in the perception and execution of conflict management. Since the early 1990s and the end of the Cold War, intra- and transnational challenges, the consequences of failing statehood and ethnic tensions have taken on new significance and led to the development of new political strategies and instruments in the CSCE/OSCE. Early warning, as an integral aspect of civil conflict and crisis prevention, has become one of the new paradigms.

Early Warning and Early Action in the OSCE

The Vienna-based Conflict Prevention Centre (CPC) acts as the clearing house for the systematic collection of early-warning information within the OSCE's early-warning mechanism. The second step is for recommendations for the practical implementation of early action measures to enter the political decision-making process via the OSCE Secretariat. The role of the OSCE's central executive structures in the processes of analysis, evaluation, and strategic development of early warning and early action has grown steadily since 2011. The CPC and the Secretariat took an innovative and promising approach, bringing together various OSCE actors in a systematic process of exchange and thus combining their diverse abilities and capacities in the areas of early warning and early action. Thus, a network of early warning focal points was established on the basis of OSCE Ministerial Council Decision

3 For a general summary of definitions and methodologies of early-warning systems in foreign and security policy, see: Michael S. Lund, *Preventive Diplomacy and American Foreign Policy. A Guide for the Post-Cold War Era*, draft manuscript, Washington 1994, and Sean P. O'Brien, Crisis Early Warning and Decision Support. Contemporary Approaches and Thoughts on Future Research, in: *International Studies Review* 1/2010, pp. 87-104.

No. 3/11 on Elements of the Conflict Cycle.⁴ This enabled the field operations and project offices throughout the OSCE area, the Hague-based Office of the High Commissioner on National Minorities (HCNM), and the Office for Democratic Institutions and Human Rights (ODIHR) in Warsaw to share their analyses with the relevant working units of the Secretariat in Vienna. The broad and cross-dimensional mandate granted to the OSCE and its executive structures in the 2011 Vilnius Decision reflects the multi-dimensional and comprehensive understanding of the causes of conflicts that is at the heart of the OSCE's concept of security. Since December 2011, this understanding has also characterized the process of implementing capabilities for early warning and early action.

The annual network meetings of the early-warning focal points have raised the exchange between the various executive structures to a new institutional level. These meetings were used to discuss and develop guidelines and indicator lists, which offer tangible benefits for an integrated approach.⁵ Precisely in view of the smouldering potential for escalation in the many unresolved conflicts in the OSCE area, these measures are far more than an organizational circle jerk. The establishment of a network of focal points and the development of internal guidelines on early warning are characteristic of the path the Organization has taken in recent years, which aims at a major enhancement of the role of conflict prevention on the OSCE agenda. The task assigned to the Secretary General in Paragraph 4 of Decision No. 3/11, to "provide early warning to the participating States by bringing to the attention of the Permanent Council any situation of emerging tensions or conflicts in the OSCE area"⁶ should also be understood against this background. The intention here is for the Secretariat to become a kind of clearing house for expertise and knowledge in the form of early-warning information, and thus to create political awareness and contribute to the OSCE's practical efforts in the area of conflict management by proposing recommendations for action. Comparable early-warning efforts have become commonplace among regional security organizations worldwide with the aim of influencing the creation of political will among their members at the earliest possible opportunity.⁷ ECOWAS, which can build on decades of experience in early warning and possesses one of the most effectively institutionalized early-warning

4 Cf. Organization for Security and Co-operation in Europe, Ministerial Council, Vilnius 2011, *Decision No. 3/11, Elements of the Conflict Cycle, Related to Enhancing the OSCE's Capabilities in Early Warning, Early Action, Dialogue Facilitation and Mediation Support, and Post-Conflict Rehabilitation*, MC.DEC/3/11, 7 December 2011, at: <http://www.osce.org/mc/86621>.

5 The OSCE guidelines for early warning and early action are circulated internally as document SEC.GAL/52/12.

6 Ministerial Council Decision No. 3/11, cited above (Note 4), p. 3.

7 Cf. Herbert Wulf/Tobias Debiel, *Conflict early warning and response mechanisms: tools for enhancing the effectiveness of regional organisations? A comparative study of the AU, ECOWAS, IGAD, ASEAN/ARF and PIF*, Crisis States Research Centre Working Paper No. 49, London 2009.

systems, shows this. Since 2003, the West African early-warning system ECOWARN has had a direct line to the ECOWAS Commission, and has thus played an important role in generating country-specific situation updates and recommendations for action and providing these to Commission members in order to minimize friction in the transformation of early warning into early action. Since the Vilnius Decision, the connection between early warning and early action has been a linchpin of the OSCE's conflict-prevention system.

The Translation of Early Warning into Early Action as a Permanent Work in Progress

The resumption in April 2014 of fighting in the conflict around Nagorno-Karabakh, which appears to be anything but frozen, revealed one weakness of the OSCE approach in particular: Early warning does not necessarily lead to preventive measures and early action. While a picture of the concentration and movement of troops and materiel along the contact line that was highly accurate in parts was transmitted to capitals of the participating States and to the Vienna Hofburg, it did not prove possible to translate these early-warning signals into practical political action. As so often, the OSCE was cursed to merely witness the accelerating escalation as report after report on military activity near the border had little effect. As in the run-up to the five-day Russian-Georgian War of 2008, two paradigmatic problems that the OSCE has had to deal with for years became apparent: (1) *The failure to effectively carry over early warning onto the level of political dialogue* among participating States, which continues to be the precondition for achieving consensus on early action and, closely related, (2) *the lack of political will* and consensus among stakeholders and participating States to recognize or use the OSCE as an instrument for conflict prevention, precisely because early action would have to be directed at the very same states when necessary.⁸

Ministerial Council Decision No. 3/11 shows that the Organization, and particularly the Secretariat and the CPC, have identified the critical point of connection between early warning and early action. The desire to raise early warning and early action up the agenda for political dialogue and action among the participating States reflects the CSCE/OSCE's experience of dramatic crises and conflicts since the 1990s. Particularly cogent are the protracted conflicts in Nagorno-Karabakh, Georgia, and Transdniestria and the OSCE's field activities in the former Yugoslavia, and particularly in Kosovo (1991). The various phases of the OSCE's involvement in these crises and conflicts are closely connected to the achievement of significant milestones

8 For a brief analysis of the problems and challenges in the area of conflict prevention, and particularly in early warning and early action, see: Claus Neukirch, *Early Warning and Early Action – Current Developments in OSCE Conflict Prevention Activities*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2013*, Baden-Baden 2014, pp. 123-133.

in the area of conflict prevention, including the Helsinki Document (1992), the Corfu Process (2009), and Decision 3/11. With the annexation of Crimea and the outbreak of hostilities in eastern Ukraine in 2014, a new chapter was added to this experience, one that painfully called to mind the enormous challenges that the OSCE faces. Many of the initiatives begun during the Swiss Chairmanship in 2014 show that the ongoing reflection on and strengthening of OSCE capabilities in civil crisis and conflict management and conflict prevention have since advanced to become major priorities for action.⁹ The German Chairmanship took up this engagement, developed it further, and embedded it in the framework of a broadly conceived attempt to initiate a structured dialogue on enhancing the OSCE's capabilities in the conflict cycle. From the start, the strategies and activities of the German Chairmanship focused on practical issues of conflict management in Ukraine and other protracted conflicts in the South Caucasus and Transdniestria, and particularly on the issue of the long-term strengthening of the OSCE's capabilities along the conflict cycle in line with experience.¹⁰

Renewing and raising the profile of problem-oriented dialogue on security and co-operation in the OSCE area is at the heart of the structured dialogue process launched by Berlin. This initiative is typical of the acknowledged need to adjust the OSCE's portfolio to the requirements of a new and fragmented security environment. The image of an OSCE renaissance, with the Organization functioning as a stand-alone agent for peace in the midst of tense relations between East and West, has frequently been deployed in the language of this initiative and demonstrates the growing willingness of those that support it to see the long-term orientation of the Organization as lying in the civil management of conflicts. One central focus of the discussions between the representatives of the 57 participating States, the OSCE offices, and the OSCE institutions that took place at the round tables in Vienna during the German Chairmanship was the effective, problem-oriented, and closer integration of early warning and early action such as preventive diplomacy and mediation. Both the discussion of opportunities for capacity building in OSCE mediation and mediation support and the second round table on early warning and early action were dominated by the question of how the OSCE's existing conflict-prevention capabilities could be brought to bear in a more focused manner while also increasing their political relevance in the OSCE context. All in all, the result of the Vienna round tables, the ambassadors' retreat in September 2016, the Chairmanship conference on "The OSCE as Mediator: Instruments – Challenges – Potentials", and the experience newly

9 Cf. Schweizerische Eidgenossenschaft [Swiss Confederation], Federal Department of Foreign Affairs, *The Swiss Chairmanship of the OSCE 2014, Final Report*, 27 May 2015, at: https://www.eda.admin.ch/dam/eda/en/documents/publications/InternationaleOrganisation/en/osze/Beilage-01-Schlussbericht_EN.pdf.

10 Cf. The Federal Government, *Renewing dialogue, rebuilding trust, restoring security. The priorities of the German OSCE Chairmanship in 2016*, at: <http://www.osce.org/cio/215791>.

gained in dealing with crises and conflicts have focused attention on a range of practical and strategic fields that decisively influence the effectiveness and applicability of the OSCE's capacities in the early phases of the conflict cycle.

The Institutional Dimension of Early-Warning and Early Action in the OSCE

Compared to many other regional actors, the OSCE faces particularly steep hurdles in turning its operational actions into policy, especially in the area of early warning and early action. The ubiquity of the consensus principle, the essential feature of the OSCE's inclusive character, is in itself an enormous procedural challenge and a major drag on *institutional autonomy of action*. Yet the latter is of major importance for linking early warning to early action, since effective conflict prevention inevitably requires greater responsiveness than is afforded by the Permanent Council's weekly sessions. The OSCE's experiences in the Ukraine Crisis and the establishment of the Special Monitoring Mission (SMM) have recently demonstrated this clearly once again.

Nevertheless – and here we see the real potential of a structured dialogue process – since the resumption of violence in Nagorno-Karabakh and the conflict in Ukraine, the OSCE has proved its worth as one of the few remaining platforms for dialogue on security and co-operation in Europe. The absence of a clear political consensus, or, more precisely, the constructive ambiguity of political compromises has been a historical feature of the OSCE since the 1970s and the starting point for political discussion on particularly controversial questions.¹¹ Against this background, the lack of consensus on the institutional strengthening of the OSCE in the area of conflict prevention should not be seen as an inevitable fact of life. It is rather the result of decades of failed or poorly supported political dialogue on norms and interests. The early identification of conflicts, early action, and the establishment of preventive structures for dialogue support or mediation have the potential to significantly increase the added value the OSCE can offer as a civil force for peace in the tense field of European security. No other organization on the Eurasian landmass has an equivalent level of regional inclusivity in its executive structures that would grant its political actions the same level of legitimacy, whether in early warning or mediation. In addition, thanks to its field operations, project co-ordinators, and Chairpersons' special representatives, the OSCE offers numerous opportunities for leveraging local knowledge and practical capabilities, which are of inestimable importance for effective early warning and early action, as discussed below.

Effective conflict prevention can only be based on a stable foundation of crisis-resistant channels for dialogue and modern instruments for commu-

11 Cf. Wilhelm Höynck, *From CSCE to OSCE: statements and speeches of Dr. Wilhelm Höynck, Secretary General of the OSCE (1993-1996)*, Vienna 1996.

nication and confidence-building.¹² In other words, early warning can only successfully translate into early action when the information, warning signs, and political recommendations for action generated by the OSCE's executive structures ultimately enter the institutionalized discourse among the participating States. This is the basic precondition for the timely and effective formation of political will in any multilateral system, and in the OSCE in particular. Bilateral channels can certainly be useful as an initial means of activating a coalition of stakeholders, but, in the long term, they are no substitute for the OSCE's multilateral and consensus-based decision-making structures. The experiences of recent decades have shown that long-term efforts to avoid the OSCE's need for consensus by making use of bilateral channels or other non-OSCE forums do not contribute to the creation of sustained political will towards conflict resolution – quite the reverse. In fact, constructive multilateralism, which is considered a guiding principle by at least a significant proportion of European states, is built on the idea that consensus does not describe a natural situation but is rather the result of dialogue and the balancing of interests between states.

It therefore remains important to continue to work to revive the OSCE's institutional channels for negotiation, particularly the Permanent Council. There are already plenty of initiatives that seek this: During the second round table on early warning and early action, the possibility of a more proactive role for the Secretary General in fulfilling his early-warning mandate was stressed several times.¹³ In practice, however, this has rarely occurred, partly because the agenda item “review of current issues” has tended to be reduced to a platform for issuing ritualized condemnatory monologues relating to current conflicts – e.g. between Russia and Ukraine or Armenia and Azerbaijan. That is why the Chairmanship and Troika states, in particular, should continue and intensify efforts to use their political clout to urge other states to inform the Secretary General on crisis-relevant developments in the OSCE area, thus allowing the early-warning signals and potential options for early action generated by the OSCE to play a bigger role and to influence decision-making processes in the Permanent Council at the earliest possible opportunity. In this context, the participating States, and above all the Chairperson-in-Office, should make greater use of preparatory bilateral meetings to leverage national early-warning information and scenario-planning expertise to expand the Secretary General's room for manoeuvre and enhance his early-warning function. Furthermore, the Chairperson's various regional special representatives could support the diversification of dialogue in the Hofburg by presenting reports on the various crisis regions more frequently than hitherto. As non-partisan intermediaries between the conflict parties and envoys

12 Cf. Alice Ackermann, The Idea and Practice of Conflict Prevention, in: *Journal of Peace Research*, 3/2003, pp. 339-347.

13 The second round table of the German OSCE Chairmanship on the conflict cycle was held in the Vienna Hofburg under the title “*Early Warning-Early Action: Narrowing the Gap*”.

of the Chairmanship, the special representatives have a special place in the OSCE complex and are often in a position to complement the Secretary General's institutional role thanks to their insight into regional realities and closeness to the Organization's field operations and project offices.

In addition, precisely for the state holding the Chairmanship of the OSCE, it is of central importance to recognize the weaknesses of the channels in Vienna that are currently blocked and bypass these by regularly offering and consulting flexible dialogue formats. While discussions in formal forums, particularly in the Forum for Security Co-operation (FSC) and the Permanent Council, were being increasingly overshadowed by off-topic disputes among the participating States, specialized discussions on specific issues concerning how the OSCE should undertake civil conflict management continued to be carried out in various supplementary dialogue formats. The Vienna round tables have shown that there is no shortage of common interests, for instance, when it comes to elaborating an early-warning follow-up mechanism covering activities related to fact finding and needs assessment.¹⁴

Against the background of current tensions in political dialogue, a major breakthrough in the institutional strengthening of the OSCE appears difficult or impossible. Nonetheless, and this is one of the lessons that can be drawn from the CSCE process, politically binding commitments – and subsequent operational instruments – are built on a foundation of long-term dialogue and gradual, pragmatic co-operation. To give a new impetus to this exchange of opinions, it is worth looking at processes based on the OSCE's experiences in the field, as these, away from the political and institutional levels, have become some of the most important sources for the development of practical resources in recent years.

The Regional and Local Dimension: Tapping Knowledge and Practical Resources

Since the early 1990s, the OSCE's field activities have gradually evolved into the centrepiece of the Organization's engagement in civil crisis and conflict management. The OSCE now maintains a broad network of project offices and field missions throughout its area of operation.¹⁵ The outbreak and escalation of the conflict in Ukraine in 2014 also gave a considerable boost to the OSCE's significance as an actor on the ground. As the Organization's most

14 A paper with the results of the round tables in Vienna was circulated under the title *A Stronger OSCE for a Secure Europe. Further Strengthening OSCE Capabilities and Capacities across the Conflict Cycle. Report by the German OSCE Chairmanship 2016 to the Ministerial Council*, MC.GAL/5/16, 8 December 2016, at: <http://www.osce.org/cio/287431>.

15 For details, see the world map of *Peace Operations 2016/17* produced by the German Centre for International Peace Operations (ZIF), at: http://www.zif-berlin.org/fileadmin/uploads/analyse/dokumente/veroeffentlichungen/ZIF_World_Map_Peace_Operations.pdf.

recent and largest mission, the SMM to Ukraine set new benchmarks not only in terms of its 800 observers from 46 participating States. Together with the OSCE Observer Mission at the Russian Checkpoints Gukovo and Donetsk, the SMM exercises a mandate in Ukraine that is broad in terms of both issues and geographical reach. Under the Minsk Agreements, this mandate covers not only monitoring and verifying the ceasefire and withdrawal of weapons in the Donbas, but also many other elements of civil conflict management. As the violence in eastern Ukraine escalated during 2014, local communication broke down, and the political divide on the ground grew ever worse, the facilitation of dialogue in the conflict regions in eastern Ukraine developed into one of the mission's core competencies.¹⁶ The oft-cited eyes and ears of the international community in Ukraine have thereby temporarily assumed responsibility for central tasks in the field where early warning and early action meet.

With its many field presences in the broader European area, and particularly in regions with a comparatively low level of integration in multilateral systems, the OSCE is one of the most important actors in the international community. Many of its operations, e.g. in the western Balkans or Transnistria, have decades of experience and can make use of extensive networks of local contacts at all levels. The benefits of this local presence creates enormous potential for leveraging knowledge and practical resources on the ground and translating them into information on political, economic, and civil society developments for the OSCE's early-warning system. Alongside the major peace missions in Ukraine and Kosovo, this is particularly relevant to the presences in Central Asia, where the OSCE is one of the few organizations supporting international engagement in a region that is largely ignored by the international community. The benefits for the Organization from co-operation with local actors have been particularly clear in recent years in relation to the OSCE's two largest field presences in the region, the OSCE Centre in Bishkek (Kyrgyzstan) and the OSCE Office in Tajikistan, in terms of generating new knowledge and practices for early warning and early action that are applicable to other field presences.

In reaction to the escalation of the conflict between ethnic Uzbeks and Kyrgyz in south-western Kyrgyzstan in June 2010, the OSCE Centre in Bishkek worked closely with civil-society actors in the region, and in consultation with local decision makers, to develop the *Peace Messengers* project.¹⁷ With

16 Cf. *Kompleks mer po vypolneniyu Minskikh soglasheniy* [Package of Measures for the Implementation of the Minsk Agreements], signed in Minsk on 12 February 2015, at: <http://www.osce.org/cio/140156>. For an English translation, see: <http://www.bpb.de/international/europa/ukraine/201881/dokumentation-das-minsker-abkommen-vom-12-februar-2015>.

17 Cf. the report by the Federal Foreign Office and Initiative Mediation Support Deutschland (IMSD) on the conference held on 6 July 2016 by the 2016 German OSCE Chairmanship on "The OSCE as Mediator: Instruments – Challenges – Potentials", pp. 16-18, at: http://www.friedensmediation-deutschland.de/fileadmin/uploads/friedensmediation/dokumente/AA-IMSD_Conference_Report_2016_The_OSCE_as_Mediator.pdf.

the participation at times of more than 700 “peace messengers” from all kinds of social milieus and local ethnic groups, this project aimed at creating local formats for dialogue and discussion that would contribute to reducing ethnic tensions and building confidence in the Osh region in the long term. One of the great strengths of this approach was the deliberate and systematic involvement of networks of local actors in the mission’s overall strategy, including councils of elders, eminent persons, and social and religious leaders. Especially in areas where statehood is limited and governments do not exercise power over large parts of their territory, as is true to this day of parts of not just Kyrgyzstan, but also Tajikistan and Uzbekistan, “insider mediators” – i.e. local mediators and dialogue facilitators – can make a significant contribution to the OSCE field operations’ efforts to support peace, compensating at times for the lack of formal mediation channels.¹⁸ The benefits of this “peace dividend” can be seen in several different areas: First, the project enables the OSCE to access a broad information network and local early-warning information. Second, the peace messengers can be the locus for initiating proactive conflict de-escalation measures and act, in many cases, as local mediators themselves, for instance, in peacefully resolving a hostage situation involving Uzbeks and Kyrgyz in the province of Chuy.¹⁹ Third, and finally, as part of the co-operation between local authorities, executive organs, and civil-society actors in Kyrgyzstan, the OSCE supported the establishment of contacts between previously divided population groups, some of which remain active long after the project’s conclusion. Not least because of these and other positive experiences, the project, despite its relatively short four-year duration, is considered a milestone among initiatives for peace consolidation in Central Asia.

Though on a smaller scale, the OSCE Office in Tajikistan, under the leadership of the Swiss diplomat Ambassador Markus Müller, also amassed positive experiences in dialogue with local executive and civil society structures. In contrast with the broad scope of the peace messengers project in Kyrgyzstan, the OSCE’s presence in Tajikistan mostly made use of local actors in its field offices from Garm to Shaartuz in order to gather early-warning information in specific situations and develop joint measures for early intervention in consultation with local partners. As in the case of Kyrgyzstan, the extreme weakness of the state’s power outside Dushanbe means that the practice of relying on the local de facto authorities and their knowledge of contexts and conflicts proved to be vital for carrying out targeted conflict prevention and crisis management measures, as in recent Uzbek-Tajik conflicts over frontiers and resources. The OSCE’s experiences in

18 For an analysis of the role of “insider mediators” from a practical perspective, see: Simon Mason/Oliver Wils, *Insider Mediators: Exploring Their Key Role in Informal Peace Processes*, Berlin 2009 [“Berghof Foundation report”].

19 Cf. Mir Mubashir/Engjellushe Morina/Luxshi Vimalarajah, *OSCE support to Insider Mediation: Strengthening mediation capacities, networking and complementarity*, s.l. 2016, pp. 54-55, at. <http://www.osce.org/support-to-insider-mediation>.

Central Asia are by no means unique. The Organization's field presences in the western Balkans have also noted the benefits of local intermediaries as sources of theoretical and practical knowledge, at least in their post-conflict work – particularly as mediators between religious groups.

The initiatives and practices of the field presences in Kyrgyzstan and Tajikistan are examples of context-dependent understanding of conflict prevention in the tense field of early warning and early, mediative action. This approach is promising and valuable for other situations in the OSCE area precisely because it provides the Organization with new means to gather early-warning information in areas of limited statehood and to apply them for timely conflict analysis. At the same time, it enables the field operations, and the Organization as a whole, to make use of regional civil society structures and communication networks to undertake measures in the early stages of the conflict cycle. The major obstacle to applying this approach in other regions within the OSCE area has less to do with the practical adaptation itself but is more a problem of knowledge management. Although early warning and early action have been among the OSCE's core competencies since the early 2000s,²⁰ and key OSCE documents have been able to draw on institutional knowledge gathered since then, knowledge concerning the existence and practicability of such approaches often stands or falls together with the personnel management of OSCE field offices or the organizational strengths and networking of the field operations. As demonstrated above, the sharing of knowledge and practical resources among Vienna and the field operations is often particularly vital for the Organization. Closing this gap and thus raising the Organization's ability to translate early warning into early action in the field of conflict prevention was one of the CPC's guiding thoughts in the development of the early-warning network.²¹ The interlinking of early-warning focal points is thus one of the key means of strengthening problem-oriented skills and capacities in gathering and analyzing early-warning information, developing timely options for action, and ultimately taking appropriate measures.

Conclusions

Conflict prevention and the timely civil management of crises and conflicts have been part of the OSCE's core activities since the early 1990s. A review of recent developments has shown that the growing social, political, and eth-

20 Cf. Alice Ackermann, OSCE Mechanisms and Procedures Related to Early Warning, Conflict Prevention, and Crisis Management, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2009*, Baden-Baden 2010, pp. 223-231.

21 Berghof Foundation report, commissioned by the German Chairmanship and the OSCE (cited above, Note 18) represents one of the first attempts to collate the OSCE's experience of working with "inside mediators" for purposes of knowledge management.

nic complexity of conflicts, particularly in transnational spaces, are posing serious challenges to early warning and early action. Like many other regional security organizations, the OSCE is confronted with the challenge of adapting both its strategic political orientation and its operational instruments to a changing environment. The ever-present danger of escalation in eastern Ukraine, regular cross-border incidents and political tensions in the protracted conflicts in the South Caucasus and Transdniestria, not to mention the growing political divisions in Central Asia illustrate how much the need for preventive early warning and early action in areas such as de-escalation through dialogue facilitation and mediation support has grown.

For all that the OSCE can point to an impressive list of achievements in implementing the groundbreaking conflict prevention measures of Ministerial Council Decision No. 3/11, this contribution has shown that there is still room for new initiatives and improvements.²² The interlinking of the early-warning focal points, by means of which the Secretariat and the CPC have opened the way towards a higher degree of integration of competencies within the OSCE, could make still more use of existing knowledge and practical resources in the field to enhance the effectiveness of the transfer of knowledge and analysis. The experiences of the OSCE's field presences in Kyrgyzstan and Tajikistan show that the Organization is capable of involving local civil society actors in its operational activities, and thereby gaining insights into and access to developing trends beyond the sphere of its co-operation with state authorities. This dynamic understanding of co-operation in the area of early warning and early action at the local level not only helps to minimize friction between the various processes but may be the very factor that enables preventive action in areas where state power is limited. Such experiences with local actors should be taken into consideration in the planning and restructuring of OSCE field activities more strongly and systematically than has been the case so far to generate added value for other crisis and conflict areas. Such networks could be especially useful for generating new ideas for early-action scenarios for needs assessment and fact-finding in the field. Insider mediators can assist, directly or indirectly, by providing knowledge or practical experience that can strengthen the roots of OSCE conflict prevention activities in realities on the ground. One recommendation to forthcoming chairmanships is that they should examine opportunities for establishing a complementary network of local early-warning focal points and mediators whose capabilities should be carefully recorded and verified so that they can be brought in to enhance existing OSCE networks at strategy meetings or briefings as required. There are plenty of points of connection that could provide a basis for initiatives of this kind, such as the former peace messengers

22 A report by the Secretary General on the implementation processes that have so far been carried out and those that are still in progress was circulated as document SEC.GAL/133/16. It shows that the majority of the plans contained in Ministerial Decision 3/11 are in an advanced stage of implementation.

in Kyrgyzstan or the Central Asian Youth Network (CAYN). The first step – making a record of available resources – already began with the study on the potential of insider mediators commissioned by the CPC in 2016.

Despite improvements in the OSCE's ability to analyse and evaluate early-warning information, enhanced linkage of focal points, and the development of new early-action measures, the OSCE will not be able to call upon its full potential for conflict prevention as long as operational activities are not complemented by an adequate understanding of the problems that exist and a willingness to take political action. This contribution has demonstrated that the OSCE's impact in every phase of the conflict cycle depends critically upon the readiness of the participating States to see the OSCE as more than a first aid kit for emergencies. At the same time, phenomena such as the protracted conflicts in the OSCE area reveal the negative effects of a lack of political will to act on the part of the participating States, particularly of those states that are, to some degree or other, themselves involved in those conflicts. However, a lack of political will or a failure to reach consensus on questions of conflict prevention or conflict resolution should not be wrongly considered an indicator of political (in)action. Precisely against this background, a constructive foreign policy, one oriented towards multilateralism and dialogue, needs to be evaluated in terms of its desire to see and its ability to achieve consensus as a product of long-term dialectical exchange in a dialogue based on norms and guided by interests. If this is not the case, platforms like the OSCE can become the victim of a fatalistic circular reasoning in which the lack of political will on the part of the participating States is taken as an argument for bypassing multilateral policymaking, thereby missing the opportunity to pursue vitally necessary initiatives.

This is especially true in the area of conflict prevention, whose status has always been problematic in any case, given the difficulty in proving results. Alongside the further development of operational options, such as the direct involvement of insider mediators and the increased use of the knowledge such actors possess to encourage the strengthening and development of OSCE capabilities both in the field and in Vienna, the central challenge here is to prevent the structured dialogue process between the participating States – including dialogue on key issues of conflict management – from being ripped up. To this end, the OSCE's role in civil conflict management should be reinforced on a longer timeframe than that of a single Chairmanship by means of close co-ordination within the Troika. Small steps such as the strengthening of the Secretary General's early-warning function in the Permanent Council, the promotion of complementary measures such as informal high- and working-level discussion formats, and closer co-operation between the Chairmanship and the Secretariat in bilateral preparatory sessions could already show the line of attack that needs to be taken. Prior to the Ukraine crisis, there was a failure to take decisive steps towards reform, largely because of a lack of political interest on the part of many participating

States and a general neglect of OSCE platforms. Even if the crisis of trust in the OSCE area should continue in the years to come, the foundations for answering (political and strategic) questions in the period that will follow the crisis are already being laid now. The participating States, and above all the states holding the Chairmanship, cannot allow the opportunity that this presents to unfold without adequate preparation.

OSCE Peacekeeping – Conceptual Framework and Practical Experience

In the 1992 Helsinki Document, *The Challenges of Change*, the CSCE participating States described peacekeeping as one “important operational element of the overall capability of the CSCE for [...] crisis management”¹ and adopted a set of guidelines that provide the CSCE with the political mandate to deploy peacekeeping operations (PKOs). However, despite the enthusiastic language contained in the Helsinki Document, the provisions on OSCE peacekeeping “have [...] remained a dead letter up to now”.² No OSCE PKO has been mandated since the Organization adopted its norms in 1992. Thus, it could be concluded that OSCE peacekeeping has remained a merely theoretical undertaking without concrete results. However, such a conclusion might well be premature. While it is true that no OSCE PKO based on the Helsinki guidelines has yet been deployed, a closer look at OSCE field operations³ (FOPs) reveals that they have carried out a range of tasks which, from a UN perspective, could easily fall under the title of peacekeeping. The Special Monitoring Mission to Ukraine (SMM) is only the most recent example of an OSCE FOP engaged in peacekeeping. Facing pressure to respond to concrete crises, participating States have been willing to establish FOPs which, due to their nature as well as their functions, can be defined as PKOs. Following this line of reasoning, it could thus be argued that the OSCE is already playing a role in peacekeeping, albeit without officially declaring its activities to be peacekeeping. Starting from this somewhat paradoxical observation, this contribution provides an overview of the role the OSCE has played in peacekeeping and discusses its potential for further development.

Peacekeeping – Towards a Conceptual Framework

Although the term peacekeeping has been part of the political vocabulary since the concept was initially developed by the UN in the late 1940s, there is

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- 1 CSCE Helsinki Document 1992: *The Challenges of Change*, Helsinki, 10 July 1992, in: Bloed (ed.), *The Conference on Security and Co-Operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 701-777, Chapter III, para. 17.
 - 2 Heinz Vetschera, *Ten Years of the Conflict Prevention Centre – Origins and Development*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2001*, Baden-Baden 2002, pp. 401-420, here: p. 411.
 - 3 OSCE FOPs evolved separately from the concept of PKOs as ad hoc arrangements in response to successive crises.

still no consensus definition of the term.⁴ However, a good starting point might be to cite the authoritative definition contained in the United Nations Secretary General's *Agenda for Peace*:

Peace-keeping is the deployment of a United Nations presence in the field, hitherto with the consent of all the parties concerned, normally involving United Nations military and/or police personnel and frequently civilians as well. Peace-keeping is a technique that expands the possibilities for both the prevention of conflict and the making of peace.⁵

Although not particularly precise, this definition contains the most significant elements that characterize peacekeeping: It is a *voluntary* activity carried out by internationally recruited military and/or civilian personnel in a non-combatant role with the aim of contributing to maintaining peace in a crisis area.⁶

In their initial manifestation, PKOs had no commonly accepted form, but developed as an ad hoc response to deal with the conflicts that broke out during the Cold War period. Nonetheless, the “doctrine” governing PKOs during this time changed very little, and a set of basic principles evolved which constituted the concept of traditional peacekeeping that remains influential today.⁷ Most importantly, the so-called “holy trinity” of peacekeeping – the minimal conditions PKOs have to meet: consent, impartiality, and the non-use of force – have been developed. The host parties’ *consent* to the deployment of peacekeeping operations is widely recognized as an indispensable prerequisite for the PKO’s success and survival.⁸ Consent not only preserves the sovereignty of the host states and, thus prevents PKOs from being seen as “invaders” interfering in the internal affairs of a state, host state consent to the deployment of a PKO also reduces the risk to the peacekeepers, who – bound by the principle of non-use of force – depend on the security guarantees provided by the host state.⁹ The principle of consent is closely

4 Cf. Klaus Törnudd, *Peacekeeping in the OSCE Region since 1992: Changes in Doctrine and Practices*, PC.DEL/210/03, 7 March 2003, p. 1; Guergana Velitchkova, *NATO-OSCE Interaction in Peacekeeping: Experience and Prospects in Southeast Europe*, NATO/EAPC Research Fellowship 2000-2002. Final Report, June 2002, p. 2, at: <http://www.nato.int/acad/fellow/99-01/Velitchkova.pdf>.

5 United Nations, Secretary General, *An Agenda for Peace: Preventive Diplomacy, Peace-making and Peacekeeping*, A/47/277, 17 June 1992, para. 20.

6 Cf. definition adapted from Törnudd, cited above (Note 4), p. 17.

7 Cf. John Mackinlay, The Development of Peacekeeping Forces, in: Kurt R. Spillmann, (ed.): *Peace Support Operations: Lessons Learned and Future Perspectives*, Bern 2001, pp. 55-73.2001, here: pp. 55-56.

8 Cf. Robert A. Rubinstein, *Peacekeeping under Fire. Culture and Intervention*, London 2008, p. 25; Jair van der Lijn, If only there were a blueprint! Factors for Success and Failure of UN Peace-Building Operations, in: *Journal of International Peacekeeping*, 1-2/2009, pp. 45-71, here: pp. 47-48.

9 Cf. Michael W. Doyle/Nicholas Sambanis, The UN Record on Peacekeeping Operations, in: *International Journal* 3/2007, pp. 494-518, here: p. 500; United Nations Department of

linked to the second principle of peacekeeping: *impartiality*. If a PKO is perceived as taking sides, the parties to the conflict are normally hesitant to give their consent or might even withdraw it altogether.¹⁰ The third principle, the *non-use of force*, binds peacekeepers to the use of force only as the last resort for self-defence. Consent and impartiality were intended to grant PKOs “a sense of security that precludes the use of force”.¹¹ Or as Sir Brian Urquhart points out, the strength of PKOs is not based on their capability to use force, but lies in the non-use-of-force principle, allowing the peacekeepers to preserve their prestige as neutral observers.¹² Taken together, consent, impartiality, and the non-use of force build a triangle of mutually reinforcing constitutive principles.¹³

The first UN PKOs – known as “observer missions” – were mostly deployed to monitor compliance with ceasefire terms by the armed forces of states in conflict situations and to provide the international community with objective reporting on the security situation on the ground. Moreover, the observers were supposed to help de-escalate and contain violence through advice, aid, and mediation. With respect to their size, observer missions used to be rather small, usually numbered in the hundreds, and were – by contrast to the contemporary image of traditional PKOs – exclusively composed of unarmed civilians. Observer missions are thus sometimes referred to as the civilian face of traditional peacekeeping.¹⁴ The “core” type of traditional PKOs was formed in 1956 when the first “UN force” was deployed to the Sinai. These PKOs normally numbered in the thousands and were typically deployed in formed units to physically separate parties to the conflict. The opposing armies were isolated from each other by removing them into “Areas of Separation”, thereby leaving a buffer zone, which would be patrolled by UN peacekeepers.¹⁵ When the buffer zone was successfully established, peacekeepers were tasked with verifying demilitarization, including weapons decommissioning and troop withdrawal (as well as daily patrolling).¹⁶

When the Cold War came to an end, the transformation of the international environment as well as the evolution of new normative paradigms

Peacekeeping Operations, *United Nations Peacekeeping Operations. Principles and Guidelines*, New York 2008, pp. 31-32.

10 Cf. Denis M. Tull, When They Overstay Their Welcome: UN Peacekeepers in Africa, in: *Journal of International Peacekeeping*, 3-4/2013, pp. 179-200, here: p. 183.

11 Rubinstein, cited above (Note 8), p. 29; Stean A.N. Tshiband, Peacekeeping: A Civilian Perspective? In: *Journal of Conflictology* 2/2010, pp. 1-9, here: p. 5.

12 Cf. Brian Urquhart, *A Life in Peace and War*, London 1987, pp. 178-79.

13 Cf. Tull, p. 183.

14 Cf. A. Walter Dorn, *Keeping Watch: Monitoring Technology and Innovation in UN Peace Operations*, Tokyo 2011, available at: http://walterdorn.net/pdf/KeepingWatch_Dorn_CompleteBook-NoCover_UNUP_2011.pdf, p. 10; Alex J. Bellamy/Paul Williams, *Understanding Peacekeeping*, Cambridge 2010, p. 175.

15 Cf. John Mackinlay, The Development of Peacekeeping Forces, in: Kurt R. Spillmann, (ed.), *Peace Support Operations: Lessons Learned and Future Perspectives*, Bern 2001, pp. 55-73, here: pp. 57-61.

16 Cf. Bellamy/Williams, cited above (Note 14), p. 175.

gave rise to a new generation of what came to be known as “multidimensional” PKOs. The evolving concept of multidimensional PKOs can be defined in terms of five characteristics: First, these PKOs are typically deployed in the complete absence of a ceasefire agreement or in situations in which an agreement is prone to collapse. Thus, they have to operate in an environment of ongoing violent conflict.¹⁷ Moreover, PKOs are no longer limited to dealing with regular armies, but are now confronted with a variety of paramilitary factions, often with little discipline and ill-defined command structures.¹⁸ The host state’s capacity to provide security to its people and to maintain public order is often weak and may be further threatened by separatist territories. Second, multidimensional PKOs typically play a critical role in supporting political efforts to settle a conflict. They are often mandated to provide good offices to the conflict parties, to facilitate political dialogue and reconciliation, and to sustain political support for the peace process as a whole.¹⁹ Third, although multidimensional PKOs tend to be deployed during or after a violent conflict, they “can be made more appropriate for all stages” of the conflict cycle.²⁰ Of most practical relevance is probably the new role PKOs play in peacebuilding. As a result of this development, PKOs are, fourth, supposed to engage along multiple dimensions and take on a range of new tasks, such as disarmament, demobilization, and reintegration (DDR), security sector reform (SSR), verification of human rights, electoral assistance, and state-building.²¹ And fifth, by contrast to traditional PKOs, which, except for observer missions, have tended to be entirely military in nature, multidimensional PKOs typically involve military, police, and civilian components. However, it should be kept in mind that the military component still represents the major part of a PKO, regardless of whether the operation corresponds to the traditional or the multidimensional type of peacekeeping.²²

OSCE Conceptual Framework for Peacekeeping

The idea of providing the CSCE with a mandate to engage in peacekeeping appears for the first time in the Prague Ministerial Meeting Document on Further Development of CSCE Institutions and Structures, which tasks the Helsinki Follow-up Meeting with giving “careful consideration to possibi-

17 Cf. *ibid.*, p. 194.

18 Cf. United Nations, General Assembly, Security Council, *Supplement to an Agenda for Peace: Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations*, A/50/60-S/1991/1, 3 January 1995, para. 12.

19 Cf. United Nations Department of Peacekeeping Operations, cited above (Note 9), pp. 22-24.

20 Cf. Oldrich Bures, A Mid-Range Theory of International Peacekeeping, in: *International Studies Review*, 3/2007, pp. 407-436, here: p. 420.

21 Cf. United Nations Department of Peacekeeping Operations, cited above (Note 9), p. 28.

22 Cf. Tshiband, cited above (Note 11), p. 6.

ties for CSCE peacekeeping or a CSCE role in peacekeeping”.²³ After several rounds of negotiations following the Prague Summit, the participating States decided to provide the CSCE with a formal mandate to deploy PKOs and adopted a set of guidelines at the 1992 Helsinki Summit.²⁴ According to the Helsinki Document, OSCE participating States may, depending on the concrete conflict situation, dispatch a variety of forms of PKO, ranging from observer and monitoring missions to large force deployments, including civilian and military components. Possible tasks for PKOs include observing cease-fires, monitoring the withdrawal of troops, supporting efforts to maintain law and order, and providing humanitarian and other assistance to refugees. None of the tasks carried out by PKOs should involve enforcement action. Furthermore, the Helsinki Document contains a set of preconditions for the deployment of a PKO. The first three of these – the consent of the parties concerned, the impartiality of the peacekeeping forces, and the use of force only in self-defence – are well known as the key principles of UN peacekeeping. However, the Helsinki provisions define a number of additional requirements, namely a consensus decision by the OSCE Permanent Council (then the Committee of Senior Officials, CSO), a clear and precise mandate, the existence of a durable ceasefire, and the provision of safety guarantees at all times for the personnel involved. The highly detailed rules for peacekeeping contained in the Helsinki Document are surprising considering that UN peacekeeping was born out of practice and was itself never codified in the UN Charter. It appears that the OSCE modelled the provisions to a large extent “on what UN practice has produced in the way of concrete results over the years”.²⁵ As the Helsinki guidelines show, OSCE provisions on peacekeeping go even further in adding conditions that have been the subject of UN discussions on peacekeeping, but are scarcely found in practice. This, in turn, raises the question of how workable the OSCE provisions on peacekeeping would be in practice.

Options and Operational Capacity for OSCE Peacekeeping

Although the OSCE has not yet deployed a single PKO, discussions on OSCE involvement in peacekeeping have been ongoing since the Helsinki

23 Prague Document on Further Development of CSCE Institutions and Structures, Chapter VI, para. 23, in: CSCE, *Final Document of the Second Meeting of the CSCE Council of Ministers, Prague, 30-31 January 1992*, pp. 13-21, here: p. 17, at: <http://www.osce.org/node/40270>.

24 Cf. Early Warning, Conflict Prevention and Crisis Management (Including Fact-Finding and Rapporteur Missions and CSCE Peacekeeping), particularly paras 17-56 on “CSCE Peacekeeping”, in: Conference on Security and Co-operation in Europe, *1992 Summit, Helsinki, 9-10 July 1992, CSCE Helsinki Document 1992, The Challenges of Change*, at: <http://www.osce.org/node/39530>.

25 Rob Siekman *Commentary: CSCE versus UN Peacekeeping*, in: Helsinki Monitor, 4/1992, pp. 18-20, here: p. 18.

guidelines were adopted. The most significant review took place in 2003, when the participating States decided to conduct an OSCE review conference on peacekeeping to assess the Organization's capacity to dispatch PKOs and to identify options for potential OSCE involvement in peacekeeping in the OSCE region. A background paper prepared by the OSCE Conflict Prevention Centre (CPC) gives an especially interesting insight into discussions on the different types of operations the Organization might envisage launching and the operational capacities that would be necessary in each case. In order to provide participating States with a general framework, the paper describes four generic types of potential OSCE PKOs: First, there is the traditional *blue helmet type of operation*, which consists of military forces, roughly a battalion strong, and organized in a military style command and control structure led by a force commander. Second, under a broader concept of peacekeeping, *unarmed observer and/or monitor operations* could be deployed to verify compliance with ceasefire agreements, and engage in confidence-building measures and human rights verification. The third option represents a *combination of the first two options, involving police and civilian personnel as well as military troops*. This type of operation might be used as a security provider, enabling the civilian part to carry out its tasks in a fragile security environment. And finally, as a fourth option, the OSCE might decide to undertake *PKOs in co-operation with other organizations*. The OSCE would exercise overall political control over PKOs carried out in co-operation with or sub-contracted to other organizations.²⁶ With respect to the assessment of the operational and logistical capacities required for the deployment of the operations identified, the paper emphasizes that the Secretariat is not prepared to deploy traditional blue helmet operations: It has neither the necessary structures in place to generate and deploy formed units, nor would the Organization be capable of providing the necessary logistical support and training for armed PKOs. The CPC would thus have to rely on participating States or other organizations to provide troop contingents as well as logistical support. Unlike armed forces, however, the OSCE is quite familiar with deploying and operating unarmed civilian missions. In such cases, the CPC could use its existing recruitment procedures and would also have sufficient capacity to plan, prepare, and subsequently support operations. With respect to multidimensional PKOs, the difficulties of recruiting formed contingents as well as providing logistical support are similar to those discussed with regard to traditional PKOs. In terms of the fourth option, the paper states that the OSCE could, in principle, collaborate with other organizations or make use of turnkey operations. However, for effective collaboration, arrangements to facilitate co-operation during the various phases of the operation as well as

26 Cf. OSCE Conflict Prevention Centre, *Current OSCE Capabilities for Deploying and Running Peacekeeping Operations*, SEC.GAL/81/03, 5 May 2003; Permanent Mission of the Netherlands, *Potential Options for OSCE Activities in the Field of Peacekeeping Operations*, CIO.GAL/54/03/Rev.1, 9 July 2003.

appropriate control and command structures allowing the supervisory bodies to provide effective strategic guidance would first have to be set up. To sum up, the document concludes that the OSCE has neither the experience nor the capacity to deploy armed PKOs of the blue helmet type. Should the participating States decide to field armed PKOs, substantial and costly enhancement of the Secretariat's operational capacity would be needed. Or – as a second possibility – turnkey operations could be used. This would involve participating States or other organizations providing the OSCE with fully formed and trained units that are interoperable as well as operationally and logistically self-sustaining.

The review conference not only identified a lack of operational capacity to field armed PKOs on the part of the OSCE but also revealed a general reluctance among participating States to deploy traditional PKOs. The majority of states questioned the added value of OSCE engagement in armed peacekeeping. Instead of duplicating structures that already exist elsewhere, the OSCE would be better advised to build on its well-known expertise in early warning and conflict prevention.²⁷ The financial implications of potential OSCE engagement in peacekeeping were also repeatedly underlined. Considering the fact that the Organization lacks the necessary planning capacity as well as an appropriate logistical support system, substantial financial investment would be required to enable the CPC to deploy military PKOs.²⁸ Finally, there was also reluctance to discuss the very idea that the OSCE could become involved in military peacekeeping resulting from the fact that the OSCE has no legal personality, which means that no Status of Force Agreements (SOFA) could be concluded between the OSCE and the host states.²⁹ All these disagreements made it impossible to reach consensus on concrete steps towards strengthening the OSCE's role in peacekeeping. Nonetheless, the review discussion produced a significant level of common understanding on the fact that peacekeeping concepts and practice have evolved considerably over the past ten years. While, in its initial phase, peacekeeping was a mainly military undertaking, it now represents a multi-functional endeavour that incorporates civilian as well as military elements.³⁰ With respect to the OSCE's role in peacekeeping, these considerations demonstrate that at least those activities which make up the civilian part of peace-

27 Cf. Permanent Mission of Italy to the OSCE (Italian Presidency of the European Union), *EU Statement to the Tenth Meeting of the Informal Open-ended Working Group of Friends on the OSCE Role in the Field of Peacekeeping*, PC.DEL/1378/03, 14 November 2003; Permanent Mission of the United States, *Statement on U.S. Peacekeeping Paper*, PC.SMC/40/98, 29 May 1998.

28 Cf. *ibid.*; Permanent Mission of Finland, *Report of the Informal Open-ended Group of Friends of the Chair on the OSCE Role in the Field of Peacekeeping*, PC.DEL/1425/03.

29 SOFAS provide PKOs with legal protection in the field. Cf. *Statements of delegations at the OSCE Workshop on Peacekeeping*, Permanent Mission of Finland, OSCE Workshop on Peacekeeping, PC.DEL/426/03, 2 May 2003.

30 Cf. Branislav Milinkovic, OSCE Peacekeeping: Still Waiting to Perform! In: *Helsinki Monitor*, 3/2004, pp. 193-201, here: p. 198.

keeping clearly fall within the OSCE's expertise. Thus, a majority of participating States were of the view that the OSCE already carries out peacekeeping, even if it does not officially label its activities as such.³¹

OSCE Experience in the Field of Peacekeeping

The CSCE gained its first practical experience in the field of peacekeeping shortly after the Helsinki guidelines were adopted. With the objective of stabilizing the situation on the ground after an informal agreement on a ceasefire ending the conflict in Nagorno-Karabakh had been reached, the participating States declared at the Budapest Summit in 1994 "their political will to provide [...] a multinational CSCE peacekeeping force [...] organized on the basis of Chapter III of the Helsinki Document 1992."³² The High-Level Planning Group (HLPG) – established to deal with the planning of the future operation – subsequently began to consider what form an OSCE PKO could take and what its operational requirements might be.³³ The draft outline presented in June proposed a force structure of three infantry battalions, two or three independent infantry companies, as well as observers and support and logistic units – in total, approximately 3,000 personnel at a cost of 100 million US dollars for the first six months.³⁴ The scale of the planned endeavour, however, raised concern among the participating States. It was doubtful whether the CSCE would be operationally prepared to field such a large-scale operation. Consequently, the participating States feared that a considerable strengthening of the CPC and a significant increase in budget would be necessary.³⁵ However, the issue which led to the most controversy was the question of how to interpret the principle of the non-use of force. While the draft on the composition of the PKO explicitly ruled out enforcement actions in line with the Helsinki guidelines, the draft rules of engagement seemed to water down this provision by stating that monitors might use armed force not only in self-defence but also in cases where the operation was forcefully prevented from carrying out its mandate.³⁶ Several delegations expressed con-

31 Cf. Permanent Mission of Italy to the OSCE, cited above (Note 27); Permanent Mission of Finland to the OSCE, cited above (Note 28).

32 CSCE, *Budapest Document 1994 – Towards a Genuine Partnership in a New Era*, 21 December 1994, Budapest Decisions, Chapter II, Regional Issues, Intensification of CSCE action in relation to the Nagorno-Karabakh conflict, para. 4, at: <http://www.osce.org/mc/39554>.

33 Cf. Heikki Vilén, Planning a Peacekeeping Mission for the Nagorno-Karabakh Conflict, in: *Security Dialogue* 1/1996, pp. 91-94, here: pp. 92-93.

34 Cf. High Level Planning Group, *Mission Statement for a Possible Peacekeeping Mission to the Nagorno-Karabakh Conflict*, REF.CIO/23/95. Corr. 1, 27 June 1995.

35 Cf. Permanent Mission of Austria, *Comments and Suggestions on the HPLG Concept for OSCE PKM to Nagorno-Karabakh*, REF.PC/628/95; Permanent Mission of Ireland, *Comments on the HPLG Concepts*, REF.PC/521/95; Permanent Mission of Switzerland, *Mission Concept on the High-Level Planning Group. Comments*, REF.CIO/71/95.

36 Cf. Rules of Engagement, Annex to REF.CIO/23/95. Corr. 1, cited above (Note 34).

cerns about whether the latter provision would conform to the requirements for an operation undertaken by a regional arrangement under Chapter VIII of the UN Charter, which only allows for peaceful settlements of conflicts. It was therefore deemed necessary to obtain authorization from the UN Security Council, as the use of force could not be completely ruled out.³⁷ Although the conditions for the deployment of the PKO were ultimately never fulfilled and a concrete request to the Security Council became unnecessary, the discussion on the use of force nonetheless had a considerable impact on OSCE debates concerning peacekeeping. For the first time, the participating States were involved in discussions on the necessity of providing PKOs with “robust mandates” to enable them to effectively carry out their tasks. The discussion was strongly influenced by the experience of the United Nations Protection Force (UNPROFOR) in Bosnia, which was forced to operate in the midst of civil war, but without robust rules of engagement. From the perspective of many participating States, the failure of UNPROFOR demonstrated that, in “new war” conflict environments, only a robust PKO would have the necessary capability for escalation dominance to be effective. By contrast, conflicts where the deployment of a traditional PKO or even an unarmed observer mission would be appropriate had become the exception.³⁸ With respect to OSCE peacekeeping, this meant that the possibility of a PKO being deployed under the OSCE flag had considerably diminished. Although the OSCE could, in principal, deploy a military PKO, acting under a robust mandate provided by the Security Council, this is, in practice, unlikely to happen. As already discussed, the majority of participating States are extremely reluctant to deploy military PKOs and clearly opt for limiting the OSCE’s involvement to the civilian part of peacekeeping.

Preparations for a PKO to Nagorno-Karabakh proceeded despite the controversies briefly outlined above, and by mid-1995 the OSCE was, in principle, prepared for the imminent deployment of a multinational operation.³⁹ However, the failure to achieve a stable ceasefire or for the parties to the conflict to agree on a mandate meant that, unfortunately, the conditions for the deployment of a PKO set up in the Helsinki framework could never have been met, thus preventing the first OSCE PKO from being deployed.⁴⁰

The OSCE had its first practical experience with deploying an FOP engaged in peacekeeping three years after its initial attempt to dispatch a PKO to Nagorno-Karabakh. On 25 October 1998, the Permanent Council adopted the decision to dispatch an OSCE FOP to Kosovo – the Kosovo Verification

37 Cf. Marjanne de Kwaasteniet, Alba: A lost Opportunity for the OSCE, in: *Helsinki Monitor* 1/1998, pp. 15-22., here: p. 18.

38 Cf. Permanent Mission of Italy, cited above (Note 27).

39 Cf. Jerzy M. Nowak, The Organization for Security and Co-operation in Europe, in: Trevor Findlay (ed.), *Challenges for the New Peacekeepers*, SIPRI Research Report, No. 12. Oxford 1996, pp. 121-141, here: p. 134.

40 Cf. Chairman’s Summary, in: OSCE, *Fifth Meeting of the Ministerial Council*, DOC.MC/1/95, Budapest, 8 December 1995, pp. 1-3, here: p. 1.

Mission (KVM) – to verify compliance with the Holbrooke-Milošević agreement and the subsequent UN Security Council Resolution 1199. With the decision to dispatch the KVM, the OSCE became engaged in an undertaking of a kind it had never before attempted. This not only applies to the large size of the envisaged mission but also to its nature, as the KVM was charged with verifying the ceasefire and the reduction of Yugoslav force levels to the size they were in January 1998 – tasks normally performed by military PKOs. Additionally, the KVM was supposed to fulfil a broad range of duties related to the human dimension, ranging from collaboration with humanitarian organizations to institution-building and election observation.⁴¹

If the KVM had reached its intended size – up to 2,000 monitors – it would have been four times larger than all previous OSCE FOPs combined.⁴² This however posed a tremendous challenge to the Organization, as there was no appropriate structure in place that could have been used to deploy such a large-scale mission.⁴³ While the secondment system worked well in staffing missions of up to 25 members, using the same system to recruit 2,000 observers turned out to be extremely difficult. Shortly before the KVM was due to leave, only two-thirds of the maximum number of verifiers had been deployed – far too few to ensure a permanent presence, even in critical areas. This unsatisfactorily slow growth in personnel was paralleled by numerous logistical problems. Appeals by the OSCE to participating States for mobile medical care and medical and armoured vehicles went unanswered for a long time. It was not until the end of November 1998 that the KVM finally received its first armoured vehicles, and by the end of December it had about 40 of them – one for every seven verifiers.⁴⁴ It is thus unsurprising that the question of the physical security of verifiers caused special concern among the participating States. Although security guarantees were provided by the Yugoslav authorities, it was obvious that, at the tactical level, the security of the KVM fully depended on the consent of the belligerents. Being unarmed, OSCE verifiers would be completely defenceless in case of violent attacks.⁴⁵ On the other hand, the fact that observers were unarmed had some advantages. First, it is questionable whether Milošević would have given his consent to the presence of an international armed force on Yugoslav territory. And second, it was precisely due to their vulnerability that neither party per-

41 Cf. Permanent Mission of Norway to the OSCE, *Agreement on the OSCE Kosovo Verification Mission*, CIO.GAL/65/98, 19 October 1998.

42 Cf. William Walker, OSCE Verification Experiences in Kosovo, in: Ken Booth, (ed.), *The Kosovo Tragedy: The Human Rights Dimension*, London 2001, pp. 127-145, here: p. 128; Alex J. Bellamy/Stuart Griffin, OSCE Peacekeeping: Lessons Learned from the Kosovo Verification Mission, in: *European Security* 1/2002, pp. 1-26, here: p. 14.

43 Cf. Márton Krasznai, Making REACT Operational, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE-Yearbook 2000*, Baden-Baden 2001, pp. 139-147, here: p. 139.

44 Cf. Heinz Loquai, Kosovo – A Missed Opportunity for a Peaceful Solution to the Conflict? In: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1999*, Baden-Baden 2000, pp. 79-90, here: pp. 82-84.

45 Cf. Bellamy/Griffin, cited above (Note 42), p. 17.

ceived OSCE verifiers as a threat. This proved to be crucial in building up close relations to the parties to the conflict, which allowed the mission to carry out its tasks.⁴⁶

As with all PKOs, the success or failure of the KVM depended on progress towards a political settlement. The likelihood of this, however, appeared to be diminishing over the first few months of 1999. Incidents of non-compliance by all parties increased, and ceasefire violations became the norm. For the KVM, this meant that it became impossible to guarantee the security of its personnel, and the mission had to be withdrawn.⁴⁷

The deployment of the Special Monitoring Mission (SMM) to Ukraine⁴⁸ represents the OSCE's most recent and most significant practical experience in peacekeeping. In its decision of 21 March 2014, the Permanent Council opted to establish a monitoring mission to contribute "to reducing tensions and to fostering peace, stability and security" in Ukraine.⁴⁹ More precisely, the Permanent Council tasked the SMM with reporting on the security situation on the ground, monitoring human rights violations, and facilitating dialogue in order to reduce tensions. However, due to a rapidly changing security environment, these "core" tasks were complemented by new duties shortly after the first observers were deployed in March 2014. The Ukrainian government increasingly lost control over eastern Ukraine, and fighting became more and more intense, making patrols in several areas a risky undertaking. At the same time, international negotiations to manage the crisis were ongoing and, on 3 September, Russia's President Vladimir Putin and Ukrainian President Petro Poroshenko reached agreement on an immediate ceasefire. Subsequently, on 5 September, the Minsk Protocol was signed and complemented by a Memorandum outlining concrete measures to implement the steps agreed upon in the Protocol.⁵⁰ For the SMM, this meant that its duties evolved considerably. The Mission was assigned a leading role in monitoring compliance with the agreement, taking on new duties normally carried out by military PKOs, such as monitoring the ceasefire, verifying the withdrawal of weapons, and monitoring the Russian-Ukrainian state border. Against this background, the target number of 500 monitors had to be deployed as soon as possible and, at the same time, various adjustments had to be undertaken to enable the SMM to operate in a highly volatile security en-

46 Cf. *ibid.*, p. 18.

47 Cf. Permanent Mission of Norway to the OSCE, *Statement by the OSCE Chairman-in-Office, Foreign Minister Knut Vollebaek of Norway, to the Permanent Council*, CIO.GAL/34/99.

48 This contribution covers the period up to March 2015.

49 Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 1117, Deployment of an OSCE Special Monitoring Mission to Ukraine*, PC.DEC/1117, 21 March 2014.

50 Cf. Claus Neukirch, *The Special Monitoring Mission to Ukraine: Operational Challenges and New Horizons*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2014*, Baden-Baden 2015, pp. 183-197, here: pp. 189, 192-194; author's interview with an SMM observer, 1 May 2015.

vironment and to fulfil its new duties. With respect to the first challenge, the CPC achieved notable success. While the quick deployment of professionals was one of the major problems the OSCE faced when establishing the KVM, the recruitment process to staff the SMM worked remarkably efficiently. Thanks in particular to the recently developed rapid deployment roster, the CPC was able to withdraw experienced staff from other FOPs in order to bridge the personnel gap in the first build-up phase of the Mission. Moreover, the OSCE's "virtual pool of equipment", created to quickly allocate critical material, proved to be very useful in guaranteeing the quick establishment of the SMM. Thanks to this database of information on where to procure critical equipment, as well as a system of "window contracts", the Secretariat was able to promptly send flak jackets, armoured vehicles, and further vital equipment to Kyiv.⁵¹ These important achievements notwithstanding, there was little time for the SMM to consolidate. Rather, the Mission had to be adjusted to prepare for its new role as a quasi-PKO. By "hardening" what had originally been planned as a civilian observer mission, the OSCE worked hard to enable the SMM to operate in a highly volatile security environment and to effectively carry out the new tasks under its original mandate. Specifically, this means that candidates with military and related expertise were prioritized in the recruitment process and new training programmes, dealing with matters such as verification and ceasefire monitoring, stress management awareness, and dealing with hostage taking, were developed.⁵² Not the least of the challenges faced by the CPC was the need to create a mission-wide security system and establish a medical infrastructure appropriate for a mission operating in a high-risk environment.⁵³ With respect to the former, all observers in eastern Ukraine were issued with a protective kit, comprising a flak jacket and helmet, diplomatic cards from the Ukrainian Ministry of Foreign Affairs, and SMM badges as well as armoured vehicles for use at all times.⁵⁴ In addition, a VHF radio system, which allows communication between patrolling members, as well as mission-wide satellite communication to guarantee emergency back-up, were established. At the same time, paramedics and ambulances were deployed to eastern Ukraine. And finally, the Secretariat initiated planning to expand the Mission's technological capacity. In order to enable SMM observers to carry out their verification tasks more effectively, their work was to have been complemented by technological information-gathering, such as satellite imagery, unmanned aerial vehicles (UAV), fixed and aerostat-mounted surveillance cameras, and night cam-

51 Cf. Neukirch, cited above (Note 50), p. 186.

52 Cf. Special Monitoring Mission to Ukraine, *Weekly Report on Resources*, SEC.FR/349/15, 24 April 2015.

53 Cf. Neukirch cited above (Note 50), p. 194.

54 Cf. Special Monitoring Mission to Ukraine, *Security Summary – Main Upgrading Actions in SMM to date*, SEC.FR/553/14, 15 September 2014.

eras.⁵⁵ Notwithstanding these important adjustments, effectively monitoring the ceasefire proved to be extremely difficult, as OSCE observers without a military background often lack the necessary knowledge to recognize specific weapon categories.⁵⁶ At the same time, even for observers with a military background, it can be difficult to verify the ownership of military assets, as they are rarely clearly marked and Ukrainian and Russian Forces often use the same hardware. Moreover, the groups that have control over heavy weapons often prevent observers from gaining access to locations where military hardware might be located or fail to provide information essential for the SMM to verify details about the withdrawal of heavy weapons.⁵⁷ And finally, monitoring the Ukrainian-Russian border turned out to be an almost impossible task. OSCE observers only monitor two out of eight checkpoints controlled by the separatists, while the stretch of the border the SMM is unable to check is around 400 kilometres long.⁵⁸ These difficulties have been further aggravated by a continuously deteriorating security situation. Being unarmed and therefore unable to use force even in self-defence, SMM observers provide an easy target for attack or hostage-taking.⁵⁹ Moreover, the observer teams operating “on the rebel side” have had to rely entirely on security guarantees provided by the rebel groups. This in turn means that observers in some crucial areas are only able to carry out their verification tasks as long as they receive the necessary guarantees from the separatists; they may even have to be escorted by them, due to the risk of minefields. Moreover, SMM observers have repeatedly been denied access to critical areas controlled by separatist groups.⁶⁰ Notwithstanding all these challenges, SMM observers managed to establish a valuable monitoring network relatively quickly, providing the international community with the only source of objective information on the security situation on the ground. Moreover, SMM observers worked hard to build a wide network of close relations with important local stakeholders as well as with other international actors active in Ukraine and thereby actively contributed to brokering local ceasefires, assessing the situation of minority groups, assisting in dealing with IDPs, and negotiating with separatist groups.⁶¹

55 Cf. Special Monitoring Mission to Ukraine, cited above (Note 52); Special Monitoring Mission to Ukraine, *Update on Preparations for the Package of Measures for the Implementation of the Minsk Agreements*, SEC.FR/170/15, 25 February 2015.

56 Cf. author’s interview with SMM Observer, 1 May 2015.

57 Cf. Special Monitoring Mission to Ukraine, *Update on Preparations*, cited above (Note 55).

58 Cf. Permanent Mission of the European Union to the OSCE, *EU Statement in Response to the Report by Chief Monitor of the OSCE Special Monitoring Mission to Ukraine*, Ambassador Ertuğrul Apakan, PC.DEL/123/15.Rev.1, 18 February 2015.

59 Cf. Neukirch, cited above (Note 50), pp. 189-190, 194.

60 Cf. Ertuğrul Apakan, *Briefing to the UN Security Council*, New York, 12 November 2014.

61 Cf. Special Monitoring Mission to Ukraine, *Report of the Chief Monitor for the OSCE Special Monitoring Mission to Ukraine*, Ambassador Ertuğrul Apakan, to the OSCE Permanent Council for the Period 12 May to 6 July, PC.FR/19/14, 8 July 2014.

There are many provisions in OSCE documents that would, in principle, enable the Organization to deploy a broad range of PKOs. Nonetheless, these provisions have never been applied so far. As the discussion in this contribution has shown, there are several reasons that explain the reluctance of the participating States to engage in peacekeeping. One of the most important is certainly the lack of operational capacity to plan, deploy, and operate PKOs. One could thus conclude that there is no role for the OSCE in peacekeeping. At the same time, however, looking at OSCE practice in conflict management shows that OSCE FOPs have played an active role in peacekeeping. In terms of the ideas behind them, both the KVM and the SMM could even be considered to be PKOs. Both were based on the core principles of peacekeeping: consent, impartiality, and the non-use of force. Moreover, the fact that they were intended to maintain a fragile ceasefire and thereby to pave the way for a political settlement of the conflict meant that they were embedded in the conflict cycle. The KVM and the SMM have been operating in a highly volatile conflict environment, characterized by ongoing violence and the involvement of a broad range of actors. And, most importantly, both FOPs were tasked with carrying out activities that are among the core functions of peacekeeping. It could thus be argued that the OSCE has already deployed fully fledged PKOs, based not on the Helsinki guidelines, but rather representing ad hoc arrangements designed to react flexibly to specific conflicts. However, such a conclusion would also be premature, as both the KVM and the SMM lacked one element critical for PKOs. Traditional as well as multi-dimensional PKOs are, at least partly, composed of armed military contingents. By contrast, OSCE FOPs, regardless of their field of activity, always consist of unarmed, individually recruited civilians. This relatively simple fact leads most analysts to conclude that the OSCE plays a role in the civilian part of peacekeeping and may have deployed quasi-PKOs, but has never been engaged in peacekeeping in its traditional sense. This contribution suggests that the OSCE's quasi-PKOs should be understood as verification missions based on the original type of UN PKOs, the observer missions, which underlines their civilian nature but also highlights their more proactive features. By contrast to UN observer missions, both the KVM and the SMM not only took on observer functions, but were also tasked with verifying compliance with military commitments and human dimension principles.

With regard to the future development of OSCE peacekeeping, the questions remains as to whether the OSCE will engage in military peacekeeping, which is – rightly or wrongly – still understood to be “real” peacekeeping. This is unlikely to happen for various reasons. The majority of participating States remain of the view that OSCE FOPs should maintain their civilian character. Moreover, the CPC is not prepared operationally to deploy whole contingents of armed forces. And finally, one might question the

added value of arming FOPs. Armed PKOs – even if equipped with a robust mandate – have no enforcement capacity. Thus, they would – in the same way as the SMM – have to negotiate with separatist groups, and could not just force them to co-operate. One might therefore reasonably argue that the civilian status of OSCE FOPs, while it does have certain disadvantages, also allows them to operate more effectively on the ground. The fact that OSCE observers are unarmed enhances their ability to gain the consent of the relevant parties to the conflict. This might improve their capability to carry out verification tasks, as these greatly depend on the willingness of all parties to co-operate.

Given the reluctance of most participating States to “arm” OSCE FOPs, the second option for the future development of OSCE peacekeeping focuses on how civilian missions could be better enabled to carry out tasks normally assigned to military PKOs. While keeping their civilian character, consideration could be given to how OSCE FOPs might be “hardened” in order to prepare them to take on the role of a military PKO. Based on the experience of the SMM, this hardening may be envisaged on various levels: Military and related expertise could be prioritized in the recruitment process, training tools would have to be adapted, arrangements for a medical infrastructure should be set up, and – last but not least – the use of specific techniques for facilitating verification could be further developed. Hardening the FOPs in this way would enable the OSCE to cover the whole conflict cycle and to more actively engage in peacekeeping while, at the same time, maintaining the civilian character of the Organization.

Creating Political Oxygen to Break the Cycle of Violence 1981-1994: Lessons from the Northern Ireland Peace Process

Foreword

Established in 2012, the Edward M. Kennedy Institute honours the late Senator Edward M. Kennedy for his lifelong commitment to justice, equality, human rights, education for all, and environmental protection, and in particular for his contribution to the Northern Ireland peace process. The Kennedy Institute represents Ireland in the OSCE Network of Think Tanks and Academic Institutions.

This paper considers the dynamics of the process used in creating the political conditions to bring about the end of political violence in Northern Ireland in the period from the IRA hunger strike in 1981 to the IRA and Loyalist ceasefires in 1994. It explains some of the key concepts that were forged in the intense political back-channel pre-negotiations that eventually culminated in opening the door to peace talks. It also shows the crucial role that third parties can play in building the capacity for parties to understand each other and create a peace-process architecture.

It is becoming increasingly clear to those in diplomatic circles that conflicts between civil, religious, or ethnic groups, however long or intense, have no real security or military solutions. The use of greater force against one or other group is a mistake often made by policy-makers in the belief that it will quell the violence and restore both order and security to the situation. However, this will only produce further estrangement and sectarianism at the expense of an equal level of effort on the political and diplomatic front. It will therefore postpone the political dialogue essential for producing an agreement.

Even world leaders such as US Secretary of State John Kerry find themselves making statements that accord with this insight when faced with four years of the Syrian quagmire, with its high casualties and millions of displaced people. Resolving conflict is about repairing the broken relationships that gave rise to the conflict in the first place, often involving a power imbalance between a majority and a substantive minority. Yet it is important not to introduce artificial supports into a process that will eventually be withdrawn.

Note: This article first appeared in the *Journal of Mediation and Applied Conflict Analysis*, an open access online Kennedy Institute journal covering all aspects of mediation, restorative practices, and conflict intervention, as well as interdisciplinary topics where applied conflict analysis forms the central theme.

The parties must reach realistic conclusions about what is achievable in a process and not what someone else may get for them. The overall challenge is to get out of the red zone (see Diagram 1 below) of many years of tit-for-tat violence, to reignite political negotiations to end the conflict, and to bring the protagonists into the blue zone, where they engage in peace talks around the table.

But how do you stop the violence that blocks parties from entering into a talks process? How do political negotiations get started? What are the political conditions that have to be in place before governments can begin to talk to groups engaged in violence? The Northern Ireland peace process shows that at least four factors need to come together to create a “ripe moment”¹ in order to break the cycle of violence:

- acknowledgement on all sides that there is a mutually hurting stalemate between the main protagonists where neither side is going to win;
- the emergence of political leadership that sees the political opportunity of arriving at a ceasefire and/or settlement and is prepared to take risks for peace;
- the forging of a number of key political ideas that are able to pump political oxygen into what is seemingly a hopeless and despairing situation and provide a political way out of the conflict for the party leaders;
- high-level international political initiatives to support efforts to gain a ceasefire and move towards the creation of the talks table.

It took over twelve years for the political conditions to ripen sufficiently in Northern Ireland to allow the leadership of Sinn Féin, the political wing of the IRA, to convince the militants on the IRA Army Council to call a ceasefire.


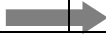
Seeds of the Irish Peace Process

It began with what Republicans saw as a tragedy involving the deaths of ten Republican hunger strikers at the Maze Prison during 1981, but led to the unintended consequence of the Provisional IRA and its political wing, Sinn Féin, changing their strategy from being a purely military focused organization to becoming a mainstream political party. The basic concept of the hunger strike was self-sacrifice and was rich with historical symbolism. It evoked the revered Fenian and Easter 1916 tradition of turning failure into success: “The cause is more important than your life.” On 9th April 1981, about half-

1 I. William Zartman, *Ripeness: The Hurting Stalemate and Beyond*, in Paul C. Stern/ Daniel Druckman (eds), *International Conflict Resolution After the Cold War*, National Research Council, Washington 2000, pp. 225-250, here: pp. 226-232.

way through his hunger strike, Bobby Sands was elected an MP to the British House of Commons, news that quickly went right round the world. The H-

Diagram 1: Sequential Phases of a Peace Process Architecture

<i>1. Conflict Engagement</i>	<i>2. Conflict Resolution</i>	<i>3. Conflict Transformation</i>
<i>The Red Zone</i> Pre-negotiation phase to end the violence and agree principles to get to the talks table.	<i>The Blue Zone</i> Talks about the design of the talks table and the negotiation of a political settlement.	<i>The Yellow Zone</i> Implementation of negotiated settlement and post-conflict transformation.
Community despair, lack of hope; fear and intimidation prevalent as long as dehumanization and violence continue. The task is to engage the protagonists and win their confidence to break out of cycles of tit-for-tat violence on the ground. New political thinking developed in secret back channels can explore the principles on which talks can commence, nudge the parties towards a ceasefire, and build new relationships of trust.	In this phase, the negotiation process is paramount to shift on-the-ground realities of the conflict. Involves moving forward on many difficult but interrelated issues simultaneously. Elections may be used to create the talks table. Each side depends on the other to sell the compromise deal to their own people. Trust builds to sustain the settlement.	Problems of implementing the settlement are addressed, requiring painful adjustment between the parties in a spirit of reconciliation. Parties have to live up to the commitments made and get compliance on security reform and the decommissioning of weapons. Truth recovery regarding gross human-rights violations, with victims and ex-combatants coming forward to tell their story.
<i>Ends with ceasefire</i> 	<i>Ends with accord</i> 	

Block hunger-strike election campaign was run by Jim Gibney and Tom Hartley of Sinn Féin for what many Nationalists saw as a modest demand to regain political status for IRA prisoners.² The British prime minister, Margaret Thatcher, refused to give in publicly, but privately offered a compromise³ that Sinn Féin refused to accept. The funerals of the dead hunger strikers had huge emotional resonance within the Nationalist community. There was an enormous outpouring of public support that brought thousands onto the streets to attend the funerals whenever each of the ten Republican prisoners died over a period of several months. It saw the biggest single political shift in the Nationalist community on the narrowest of fulcrums. Suddenly Gerry Adams in Sinn Féin and his “kitchen cabinet” of Jim Gibney and Tom Hartley woke up to the possibility of harnessing this shift and transforming it into a political opportunity. Danny Morrison asked the question at the 1981 *Ard Fheis* (annual conference): “[...] will anyone here object if, with a ballot paper in this hand, and an Armalite in this hand, we take power in Ireland?”⁴

While a dual strategy of guns and votes is chilling to democrats, it proved a crucial turning point for Adams, who began to float ideas about how politics could deliver Republican objectives where violence could not. Loyalist leader Gusty Spence understood the significance: “Without Margaret Thatcher’s ham-handling, we wouldn’t have had the political strength Sinn Féin gained [...] Consequently we wouldn’t have had the peace process”.⁵ Ultimately militants will only be convinced if they see the political benefits of winding down violence.

Lesson 1: Out of the awfulness of a moment can come the political opportunity to initiate a peace process. It is important for governments to recognize how such tragic events can radicalize a whole population and present rebel military leaders with the possibility to switch over to politics if they can see the political gains that might come from it.

On the back of Nationalist reaction in the wake of the hunger strike, Gerry Adams was elected MP for West Belfast in 1983, defeating in the process the more moderate Gerry Fitt, one of the founders of the Social Democratic and Labour Party (SDLP). Up to that point, Sinn Féin had followed a policy of abstaining from taking seats in any elected chamber, whether Dublin, Westminster, or Belfast, which had been a core value of the Republican tradition going back to 1918. However, it was becoming clear that the IRA could not win an outright victory in their struggle to remove the British from Ireland,

2 Cf. Ed Moloney, *A Secret History of the IRA*, London 2007; David Beresford, *Ten Men Dead: The story of the 1981 Hunger Strike*, New York 1987.

3 Cf. Richard O’Rawe, *Afterlives: The Hunger Strike and the Secret Offer that Changed Irish History*, Dublin 2010; Thomas Hennessey, *Hunger Strike: Margaret Thatcher’s Battle with the IRA 1980-1981*, Dublin 2014.

4 Cited in: Richard English, *Armed Struggle: The History of the IRA*, Oxford 2004, p. 225.

5 Cited in: Roy Garland, *Gusty Spence*, Belfast 2001, p. 243.

nor could they be defeated militarily. This realization began to force the pace of debate about the need for a new strategy that would advance the political aims of the movement and at the same time raise its game to a higher political level. The northern faction, now led by Adams and Martin McGuinness, thought this would be done by votes, while the southern and more ideological traditionalists wanted to continue and, if possible, intensify the military struggle.

Gerry Adams from Belfast and Martin McGuinness from Derry won the “guns versus votes” argument at the Sinn Féin *Ard Fheis* in 1986. However their victory over the traditional military hardliners was not without consequences. A key feature of the Irish Republican movement throughout history was its propensity to split, particularly on issues of political compromise. Ruairí Ó Brádaigh had been a key member of the movement in 1970 when it split between the Official IRA and the newly formed and more violent Provisional IRA. Sixteen years of violence had not changed his mind about the use of force as the sole instrument in removing what he saw as the British presence in Ireland. In response to the new strategy now being advanced by Adams and McGuinness, O’Brádaigh led disaffected members out of the movement to form a more militant Republican Sinn Féin.

Having already replaced Ó Brádaigh as president of Sinn Féin three years earlier in 1983, Gerry Adams and his Belfast “kitchen cabinet”, now took complete control of the organization from the southern leadership and, together with McGuinness, embarked on an unprecedented political partnership that went on to contest local and Westminster elections successfully. All of this political shift amounted to an “internal ripening”⁶ that put in place the first building block of the peace process.

Lesson 2: In almost all national liberation organizations dedicated to political objectives, there are those who bomb and those who think. The challenge for governments and peacemakers is to identify those who think beyond the violence and help them to develop political strategies.

Increased Security Co-operation

Following the 1981 hunger strike, the British government embarked on a new effort to establish a minimal level of political functioning under a system they described as rolling devolution within Northern Ireland. In the election to a new Northern Ireland Assembly in October 1982, the Unionists successfully fought back to hold off the increased turnout by Nationalists and Republicans at the polls. However, the moderate Nationalist SDLP and Sinn Féin, the

6 Jannie Lilja, Ripening Within? Strategies Used by Rebel Negotiators to End Ethnic War, in: *Negotiation Journal* 3/2011: pp. 311-342.

political representatives of the Provisional IRA, refused to take their seats, and the British initiative consequently stumbled.

The incoming Irish government in 1983 led by Taoiseach/Prime Minister Garret FitzGerald was alarmed by the electoral success of Sinn Féin, whose vote exceeded that of the SDLP by a margin of three to one in the Lower Falls by-election in Belfast. If that trend were to continue, it could undermine the moderate nationalism of John Hume's SDLP party within Northern Ireland, which was committed to a united Ireland agreed through dialogue. If repeated in the South, that momentum could even destabilize the Republic. FitzGerald was very worried: "Unless a political solution was found that would enable the [Nationalist] minority to identify with the system of government in Northern Ireland, it would be impossible to solve the security problem."⁷ He had great difficulty in explaining to Mrs Thatcher that these two issues of nationalist political alienation and non-identification with the security forces and structures of justice were inter-twined.

Equally alarmed at the continued electoral success of Sinn Féin, this time in the British general election of 1983, the British government held a different view. Mrs Thatcher saw the discussions opening up with Garret FitzGerald as an opportunity to bring the Irish government to a realization that only through improved security co-operation between the two governments and tougher security measures against the Provisional IRA could they be defeated. The Royal Ulster Constabulary (RUC), the British Army, and the Special Air Service (SAS) were now deployed with increasing effectiveness against the Provisional IRA, who had intensified their campaign of violence and taken it to cities in the UK. Then came October 1984, when there was an audacious attempt by the IRA to kill Mrs Thatcher along with other British cabinet ministers. IRA activist Patrick Magee planted a long-delay time bomb behind a bath panel on the fourth floor of the Grand Hotel in Brighton some weeks before the Conservative Party's annual conference. It was primed to go off at 3am. Mrs Thatcher survived, but five people were killed and 31 injured, including the wife of Norman Tebbit MP, a close ally of the prime minister.

Following the Brighton attack, a concerted high-level political effort was made between Garret FitzGerald and Margaret Thatcher that involved summit meetings, diplomacy and back channels. When they met at Chequers in November 1984, FitzGerald went over the issues again of why a Nationalist minority needed special treatment in terms of policing/security and political momentum. Amazingly, out of the clash of polar opposite views between these two heavyweights, Mrs Thatcher suddenly felt that "we're now tackling the problem in detail for the first time",⁸ showing that she loved intense political argument. Ideas about a joint border zone and a joint security commission were discussed, but the Irish side were unwilling to go in this direction

7 Garret FitzGerald, *Just Garret, Tales From the Political Front Line*, Dublin 2010, p. 363.

8 Garret FitzGerald, *All in a Life*, Dublin 1991, p. 521.

because they would be taking on responsibilities without power. The Irish would have to be politically involved in any security instrument. At this stage, Mrs Thatcher was opposed to any Irish involvement.

Despite disastrous press conferences following the summit, when Mrs Thatcher turned down the three political options put forward in the New Ireland Forum report in her famous “out, out, out” riposte, there followed a year-long round of negotiations that led to the Anglo-Irish Agreement in November 1985. Most of the progress was made at the level of senior officials. The key negotiators were Sir Robert Armstrong (cabinet secretary), Sir Robin Butler, and Sir David Goodall on the British side, and Dermot Lally (government secretary), Noel Dorr, and Michael Lillis on the Irish side. US President Ronald Reagan applied some pressure on Mrs Thatcher to sign the Agreement even though she strongly opposed the newly created intergovernmental entity becoming a joint authority, thereby undermining British sovereignty.⁹ From their once differing perspectives, the two governments created an intergovernmental conference for improving political relations and a co-operation mechanism to be based in Belfast to work on security matters. For the first time since partition, both governments gave Unionists a strong guarantee on the principle of consent – that no change in the status of Northern Ireland would come about without the consent of a majority of the people living there.¹⁰

The Anglo-Irish Agreement became the second building block of the peace process. It paved the way for improved political relations between the two governments, enabling them to make a joint political analysis of events on the ground, and gave the Irish a consultative role in security and other limited matters relating to Northern Ireland. Even though Mrs Thatcher remained unconvinced by the Anglo-Irish process (she arranged no other summit), it laid the basis for the two governments to work together against IRA violence and become twin political anchors for an emerging peace process. Add to this the fact that British and Irish prime ministers and their foreign ministers were now meeting each other regularly on the margins of EU summits, it all contributed to consolidating an equal partnership.

Lesson 3: A major challenge is to attempt to create structures between parties in the conflict that will foster trust on issues where suspicion may be pre-existing. Such structures can be intergovernmental, security, political or other. What makes it important is the fact that the relationship is worked on and improved.

9 Cf. Eammon Mallie/David McKittrick, *Endgame in Ireland*, London 2001. This book provided the background for the script of the three part BBC/RTE television co-production of the same name. It is now available on YouTube.

10 Cf. Brendan O’Leary/John McGarry, *The Politics of Antagonism: Understanding Northern Ireland*, second edition, London 1996.

In retrospect, the failure to involve the Ulster Unionists or representatives of Loyalist paramilitaries in the process was a missed opportunity, resulting in the Anglo-Irish Agreement being completed without them. It raises a central question: When do you include parties in consultations and in what circumstance do you exclude them? As 1986 began, the Unionist parties came together in ferocious opposition to the Anglo-Irish Agreement, holding a massive rally outside Belfast City Hall led by Reverend Ian Paisley (Democratic Unionist Party, DUP) and James Molyneaux (Ulster Unionist Party, UUP). They felt betrayed by Mrs Thatcher, even though the principle of consent was now enshrined in an internationally recognized agreement. As a result of their public anger and negative stance towards the Agreement, no new thinking came from the Unionist heartland community. In many ways, this encouraged a situation in which mainstream Unionism could continue to say what it was against and not what it would settle for or ask of others in terms of a comprehensive political process.

Against the background of Unionist exclusion and increased intergovernmental co-operation, former Loyalist prisoners such as Gusty Spence and Davy Ervine of the Ulster Volunteer Force (UVF) as well as John McMichael of the Ulster Defence Association (UDA) began to rethink the future of the union and their own identity through self-education and intense political discussions on how the conflict could be brought to an end. The Long Kesh prison regime allowed political prisoners access to books and Open University courses, as well as the ability to meet, debate, and deeply reflect on what the violence had achieved, regardless of whether offensive or defensive. They slowly came to a similar realization that the use of violence or armed struggle is counter-productive and more could be gained for their community from a different political strategy.

Despite all the political progress between the governments and within Republicanism, the shrill sound of Republican rhetoric around the removal of the British presence in Ireland served only to make Unionists and Loyalists more suspicious of Republican motives. The Unionist community were now asking themselves whether they were in danger of being driven out of Ireland. In their view, they were the British presence in Ireland, and no amount of violence or historical revisionism would change that fact.

With the ongoing improvement in relations between the British and Irish governments, the question was where the substantial shift in Unionism would come from? Were there leaders who could go beyond negative identity politics and come up with a new vision of what Unionism could be in the

changing political landscape?¹¹ In Diagram 2 below, we describe this as the fourth building block, together with the absent building block 5.

Lesson 4: Governments need to identify emerging political leaders who have symbolism and substance in equal measure. Such leaders should be able to symbolize the aspirations of their communities yet have the substance to negotiate the difficult terms of a future settlement.

A Mutually Hurting Stalemate

Despite the best efforts of British security forces to manage the security threat, the low intensity war of bombs and shootings perpetrated by paramilitaries continued unabated. The IRA still had the capacity to do a lot of damage as a result of their acquisition of Semtex and heavy arms shipments sent by Libya's Colonel Muammar Gaddafi. An IRA bomb killed eleven civilians and injured another 63 in Enniskillen in 1987 at the Remembrance Day ceremony to honour the dead of previous wars. The images were horrific and the public was shocked. The next year saw further deaths on each side. In Gibraltar, three unarmed IRA activists were killed by the SAS in a controversial "shoot to kill" incident. Their bodies were brought back to Milltown Cemetery in Belfast, where three mourners were killed by loyalist Michael Stone. Two days later, two British Army corporals were killed when their car encountered another IRA funeral. Eight British soldiers were killed and 28 injured at Ballygawley. Three IRA men were shot dead by the SAS in Tyrone.

How much violence has there to be before parties say "enough is enough"? How much hurting has there to be before people shout stop? William Zartman defines the mutually hurting stalemate as that point when the parties perceive the costs and prospects of continuing the conflict to be more burdensome than the costs and prospects of settlement.¹² This opens a ripe moment when it becomes possible for political leaders to seize the opportunity to get out of the grip of the tit-for-tat spiral and open up a discussion around future solutions.

Looking back, it is possible to see that this ripe moment came in two waves – one in the late 1980s and one in the early 1990s after yet more atrocities. The British military strategists realized they could not beat the IRA militarily, but they could certainly contain them. In fact, the IRA's operational capacity was being heavily undermined by informers and the success of British intelligence gathering through more effective electronic devices.

11 For further elaboration cf. Benedetta Berti/Ariel Heifetz Knobel/Gary Mason, The Role of Intra-Group Consensus-Building in Disarming Militant Groups in Northern Ireland, in: *Journal of Mediation & Applied Conflict Analysis* 1/2015.

12 Cf. Zartman, cited above (Note 1), pp. 228-229.

As BBC journalist Peter Taylor reported, “The Brits simply knew too much”.¹³ On the other side, prominent IRA leaders began to accept that they could not win, that the British military regime could not be defeated, and there had to be negotiations. IRA ex-prisoner Brendan Hughes told Taylor: “Otherwise the only alternative was [to carry on] a futile war which I didn’t think the leadership was prepared to do.”¹⁴ They could keep the terrorism going but would they be any nearer their objective of British withdrawal and a united Ireland?

Lesson 5: A peace process builds momentum when each side recognizes that a military victory over the other side is unattainable. However, leaders must prepare the ground for negotiations and to see whether dialogue is possible. Making contact with their enemy through private back channels becomes the first safe step.

Back-Channel Private Dialogue

In 1987, Father Alex Reid, a Redemptorist Priest in the Clonard Monastery in West Belfast, accelerated his efforts to get a clear set of principles and objectives from Republicans that could bring them into an exchange of ideas with other Nationalist parties such as the SDLP and the Irish government headed by Taoiseach Charles Haughey. He approached each of them with a set of six principles and twelve stepping stones that had been developed in a secret and unofficial channel of communication between Gerry Adams and Cardinal Tomás Ó Fiaich, the Catholic Primate of All Ireland. In January 1988, John Hume took the risk of meeting Gerry Adams for preliminary talks at Clonard Monastery.¹⁵ Hume was committed to dialogue and had been a leading contributor to the New Ireland Forum, at which four nationalist parties in Dublin 1983-4 had met to reach a nationalist consensus.

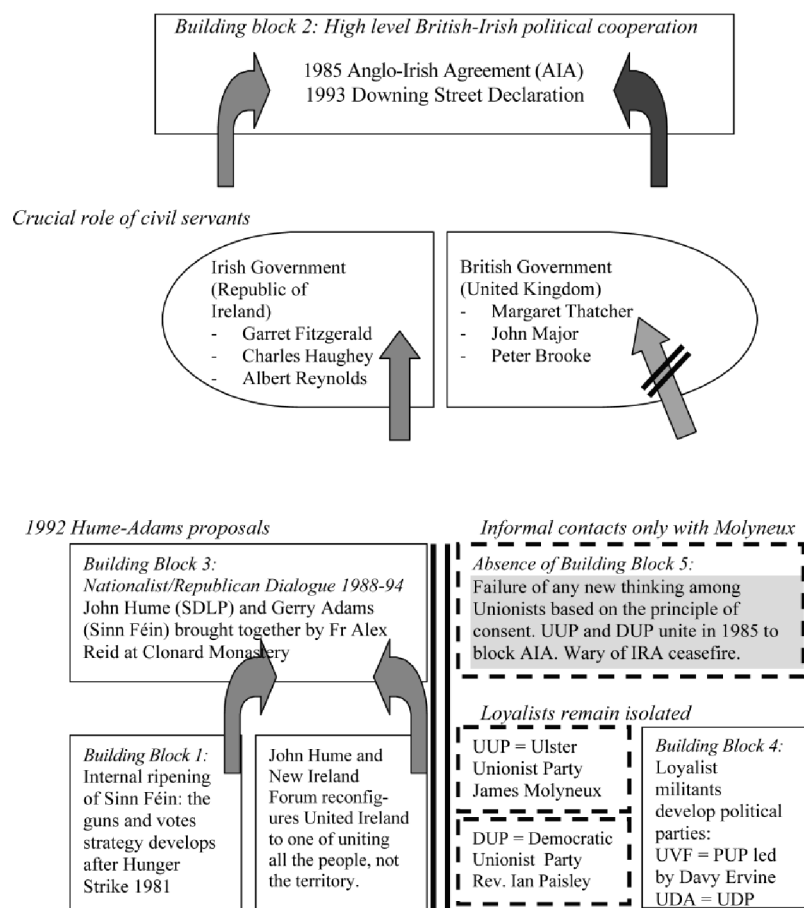
This triggered a number of inter-party dialogue sessions between four Sinn Féin and four SDLP thinkers, including the party leaders. These began on 23 March 1988 and ended in September at St Gerard’s Retreat House in North Belfast. Reid did not facilitate the sessions but left the parties on their own, as did Terje Rød-Larsen in the Oslo talks on the Middle East peace process in 1992. These intense and sometimes heated talks were based on papers prepared by each party to discuss a common strategy for bringing about Irish unity. For Sinn Féin, unity meant a united political territory whereas for the SDLP it meant a united people including both the green and the orange traditions.

13 Peter Taylor, *Brits: The War against the IRA*, London 2001, p. 308.

14 Ibid.

15 Cf. Moloney, cited above (Note 2).

Diagram 2: Building Blocks of the Northern Ireland Pre-Negotiation Phase



Lesson 6: Ethnic conflict has traditionally focused on issues such as territory, power, and resources. In fact, it is about people. In Ireland, the violence was perpetrated with the goal of uniting territory. However, it was the people who were divided in their minds. Sometimes overcoming ethnic conflict is about creating a unity of hearts and minds to enable people to act in common purpose and make each other secure in their differing identities.

John Hume and Gerry Adams continued to meet in secret for another four years to tease out key concepts¹⁶ around:

¹⁶ Cf. Gerry Adams, *A Farther Shore: Ireland's Long Road to Peace*, New York 2003, pp. 76-84.

- national self-determination and whether Irish people support violence;
- the role of the British government and what is meant by British withdrawal;
- the Unionist veto over change and the principle of consent;
- alternatives to armed struggle that would involve maximum consensus among Irish Nationalists.

New understandings emerged between them on how to reframe “the British presence in Ireland in a manner which leaves behind a stable and peaceful situation”.¹⁷ They shaped the Hume-Adams proposals, a set of principles that ultimately became part of the Downing Street Declaration in December 1993 following top level negotiations between the two governments. This third building block offered a way out of the conflict.

A New British-Irish Political Landscape

With the fall of the Berlin Wall in 1989 and the end of the Cold War, the international context changed, creating a more favourable environment within which a peace process could be born. Political changes in London saw the departure of Mrs Thatcher and the appointment of John Major as prime minister in November 1990. He put Northern Ireland on the front burner. Peter Brooke became his secretary of state for Northern Ireland. Brooke was a shrewd political operator with a good understanding of Ireland, its history and politics thanks to his Irish roots. He reopened the secret channel with the IRA senior leaders that went through Brendan Duddy, a Derry businessman,¹⁸ and received in return the dramatic message that the IRA wanted to end the conflict. John Major pondered whether it was genuine and believable: “Were the Provisionals really ready to end violence? Or was it just a ploy? Did they wish to suck the government into negotiations in which they would demand unjustifiable concessions in return for an end to their killing of the innocent? If that failed, would they then blame us for the renewal of violence?”¹⁹ Jonathon Powell, chief of staff to Prime Minister Tony Blair, had similar thoughts some years later: “It is very difficult for governments in democracies to be seen to be talking to terrorists who are killing their people unjustifiably. But it is precisely your enemies, rather than your friends, you should talk to if you want to resolve a conflict.”²⁰

Brooke was keenly aware of how sensitive the Republicans were to language and wanted to indicate a British willingness to help bring the conflict to an end. In November 1990, he made an astonishing public statement,

17 Ibid. p. 78.

18 Cf. Moloney, cited above (Note 2), p. 406.

19 John Major, *The Autobiography*, London 1999, p. 431.

20 Jonathan Powell, *Great Hatred, Little Room: Making Peace in Northern Ireland*, London 2008, p. 312.

which had been approved by John Major, that echoed back what he knew was of strategic importance for the Reid/Hume/Adams back channel. He said the British government had “no selfish strategic or economic interest in Northern Ireland [...] Britain’s purpose is not to occupy, oppress or to exploit.”²¹ What this meant was that if a clear majority of the people in Northern Ireland wished to leave the UK, Britain would not force them to remain. “It is not the aspiration to a sovereign, united Ireland against which we set our face, but its violent expression.”²² It was hard for the unionists to hear this message, deeply unsettling them, because they had come to rely on the Thatcher dictum that Northern Ireland was, as she put it, “as British as Finchley [her constituency in England]”.

What they were now hearing from Peter Brooke – and a new prime minister – was that the status quo of rigid positions and ancient feuds was unacceptable and things had to change. Unionists heard this statement with some trepidation and sought to downplay its significance as an “off the cuff” remark. They did not want even the slightest opening of a position that might be interpreted by their own hinterland as weakness in the face of IRA violence against members of their community.

Building on John Hume’s thinking, Brooke initiated a process that sought to address the three sets of broken relationships – within Northern Ireland, between North and South, and between Britain and Ireland. These became known as the interlocking “three strands” with the key proviso that nothing would be agreed until everything was agreed. They would later be incorporated into the Good Friday Agreement in 1998.

John Major had struck up a friendship with Albert Reynolds when they met each other at the EU Council of Finance Ministers. By coincidence, in 1992 they were now prime ministers and both approached the matter with less ideological baggage and no historical scores to settle. They saw the need for a safe deal in the knowledge that neither would sell the other short. Their relationship was not without its hiccups, and there were some tempestuous meetings between them, particularly the summit in Dublin; but Reynolds was determined to create the conditions for a ceasefire deal based on the Nationalist consensus for peace that he had forged with the SDLP and Sinn Féin. It sought to bring all strands of opinion to a position where, if the IRA were to call a ceasefire, then doors would open and chairs at tables would be made available for the Republican movement. As part of the choreography in advance of a ceasefire announcement, the British and Irish governments unveiled the Downing Street Declaration in December 1993. Crucially, this included input from the Loyalist paramilitaries, who were aware of what was being produced.

21 Cited in: Major, cited above (Note 19), p. 435.

22 Ibid.

Lesson 7: Governments and others can give political oxygen to a process that has been breathing in nothing but the stale air of violent or oppositional rhetoric, thereby perpetuating a stalemate. This oxygen can come in the form of political signals, statements, and political actions that signal to those engaged in violence that a new strategic political avenue may be opening up. While the statements can indicate a willingness to be civil, the bona fides of those involved in violence remains subject to examination.

Risking Political Credibility to End Violence

Bill Clinton realized there was a sizable Irish-American vote to be won when he ran as a presidential candidate, and promised that if elected he would make Ireland a priority during his administration by appointing a special envoy. As part of the ongoing sequence of confidence-building steps that were now underway following the announcement of the Downing Street Declaration, focus shifted towards pushing and pulling the Republican movement into a ceasefire. In January 1994, the Irish government, John Hume, and Sinn Féin lobbied President Clinton to allow Adams speak to a conference on Northern Ireland. The US State Department and the British embassy in Ireland vigorously opposed it, and ultimately it came down to the personal signature of the president. Pressure came on Clinton and his deputy national security advisor, Nancy Soderberg, to grant a 48-hour visa as a signal that the US was true to its word on backing the Nationalist consensus for peace. The problem for the United States was that this decision was needed to keep Sinn Féin and the IRA on course for a ceasefire but was intrinsically repugnant to every nerve ending in the US system, not because it was Adams, but because the British were America's closest international ally. The stakes could not have been higher and presented a major dilemma for the US administration.

In a smart political calculation, Soderberg and Clinton realized that granting the visa would commit Adams to deliver the IRA ceasefire and enable the peace process to go forward. If he did not deliver, then Clinton would walk away from any further support.²³ However, this would give Adams' opponents in the Republican community the excuse to say: "They only want one thing: our capitulation and the destruction of the IRA." In a last minute decision, the visa was granted, and it turned out to be a public relations triumph for Adams, who met members of Congress and appeared on television talk shows. Adams scrupulously honoured the terms of the Clinton visa and only talked peace. When he returned home, Adams used the fact that the Irish government had played a key role in securing his visa to strengthen his position within Sinn Féin and the IRA. The fact that the US went with the

23 Cf. Mallie/McKittrick, cited above (Note 9).

Irish position was proof that the peace process was advancing the political objectives of the Republican movement. This changed the balance of power within the movement. If violence of any kind or even the threat of violence was to be continued, then all the progress on the consensus between Dublin, Washington, and the SDLP would melt away and they would be further back than ever.

Lesson 8: Take political risks for peace. Political leaders almost need to be personally obsessed about winning peace to take the risk to get peace. However, the greater the credibility of the leader taking the risk, the greater is the possibility of reward. When a world leader goes to all the trouble to open doors and to get those excluded from the mainstream into the process, then this in turn creates a commitment to keep them inside the process.

Endgame

The next step was for Sinn Féin to deliver the ceasefire. A group of Irish-American businessmen assembled by Niall O'Dowd, New York-based publisher of the newspaper *Irish Voice*,²⁴ played an important role in edging Sinn Féin and the IRA along this road. As 1994 broke into spring, the internal debate sharpened inside Republicanism about what was being sold out and for what in return. The hardliners argued that IRA ceasefires had historically always weakened the organization and damaged the armed struggle, pushing the line that the British and Irish governments wanted to destroy Republicanism. They believed any peace process involving the IRA would end the struggle to remove the British from Ireland and inevitably result in a compromise. So it was vitally important for Adams, having gone this far, to now bring the whole movement with him and limit the size of any splinter group. The internal management of the Republican movement to avoid a possible split was now becoming increasingly crucial. This is why Gerry Adams felt compelled to walk with IRA volunteers carrying the coffin of a dead IRA man who was killed while planting a bomb on the Protestant Shankill Road in October 1993. That bomb killed nine people. He also needed to demonstrate his affiliation publicly because he knew he had a big ask to make of the Republican movement in the months ahead.

Lesson 9: Prepare the political mainstream for the entry of former paramilitaries into the political process and manage the expectations of people on all sides. Violent organizations are united in what they oppose but they rarely stay together in agreeing what they will settle for in terms of a compromise.

24 Cf. Niall O'Dowd, *An Irish Voice*, Dublin 2010.

Following many secret meetings and the holding of an IRA General Army Convention in the summer of 1994, the IRA was ready to take a decision. However one more hurdle remained to be cleared. A visa was now required for veteran Republican Joe Cahill to travel to the USA and reassure those who had supplied money for guns that the movement was entering a new phase of the struggle, a phase characterized by political action and not military struggle. The key message was that the movement was united in its decision and that Adams and McGuinness had the support of the vast majority of the Republican family. When Taoiseach/Prime Minister Albert Reynolds again pressed Clinton to secure his approval for Cahill's entry into the US, Clinton remarked: "Have you seen this guy's CV?" To which Reynolds is reputed to have replied "I didn't expect you to read that he was a member of the Legion of Mary [conservative Catholic group]". Once again, Reynolds argued for a visa, the British opposed it, and Clinton was told by his State Department that his political credibility was on the line. In the end, the visa was granted. However, all governments were weary of demands and tests. It was now time for Adams and Co. to call a ceasefire. Cahill went to the USA, and forty eight hours later, on 31st August 1994, following 25 years of violence, the Provisional IRA called a complete cessation of military hostilities. For the first time in a quarter century, the guns and bombs of one of the most dangerous, disciplined, and violent organizations fell silent. This was followed by the Loyalist ceasefire in October. The doors were eventually opened for Sinn Féin/the IRA and the Loyalist parties to take their seats at the negotiation table.

Lesson 10: A diaspora can potentially play a crucial role in funding and supporting an armed struggle. It therefore follows that the same diaspora can play an equally important role in supporting elements of an organization who wish to pursue peace. In an emerging peace process, it is important to ensure that those who supported the armed struggle do not continue to give support to militants wishing to continue violence.

These thirteen years of peacemaking show that the de-escalation of protracted conflict between religious and ethnic parties is a slow process involving a journey of incremental relationship-building and conflict analysis where the language gets fine-tuned. Some ten years later, Taoiseach Brian Cowen remarked: "Peacemaking is a journey. Don't frontload the destination in the first few steps. Start the journey and let the destination take care of itself."

When protagonists of opposed causes engage with each other, they build confidence, trust, and credibility, giving reassurances of their desire to get to the negotiating table. While the early stages of this work are best done secretly via back-channel third parties shuttling between the parties, the power of direct face-to-face dialogue is huge in dissolving negative stereotypes. It enables parties to hear and understand how past collective events

have affected their community, to unravel the political trauma of what happened, and to tease out the political issues that have to be addressed to get to a settlement. Here is where the pumping of political oxygen by the governments into the intense discussions enabled the Nationalist parties to re-imagine the fractured relationships and to create new political frameworks. Yet the missed opportunity was not being able to engage the Unionist parties in a similar de-escalation process [as shown on the right-hand side of Diagram 2]. They were unable to win the confidence of their own Protestant community and forge growing relationships between Britain and Ireland, the Irish Republic and Northern Ireland, as well as within Northern Ireland.

And now for the final lesson we really learned: that while we are all profoundly different in nature as human beings, yet united by destiny, we are here on these islands as British, Irish, Scottish, Welsh, as well as a host of other identities. We can choose to make the future different from the past. As David Ervine, the Loyalist PUP leader, kept telling us: We may all be a victim of the hate that was handed down to us through “a taught process” about the past, it will skew our vision of the future if we are not able to be part of “a thought process” that rethinks our relations with others who are in conflict with us.

Comprehensive Security: The Three Dimensions and Cross-Dimensional Challenges

Focus: Migration and Refugees
in the OSCE Area

From Exclusion to Participation: Refugee Protection and Migration Policy in Crisis

Debates around the issue of migration policy have been at the top of the agenda in European politics since at least the summer of 2015. The free movement of workers within the European Union played a major role in the recent referendum on the United Kingdom's continuing EU membership ("Brexit"). The Hungarian government held a referendum seeking (unsuccessfully) to block EU decisions that enable the resettlement of people seeking refuge, mostly from Syria, throughout the EU according to quotas. At the same time, the German interior minister has claimed that the "refugee crisis" is in the process of being resolved, even though an ever greater number of people are continuing to cross the Mediterranean to seek refuge in the EU.¹ In this complex situation, where the agenda appears to be determined by fear, antipathy, and political short-termism, it is also hard to initiate a discussion focused on solving problems because terms such as refugees and asylum, migration and integration are used in such a confused manner. The public discourse is buzzing with concepts used in a highly politicized manner: immigrant, asylum seeker, refugee, and migrant – anyone using such terms also mobilizes – whether consciously or unconsciously – specific associations and feelings. Clarifying terminology, legal rights, and the applicable rules and regulations is therefore a necessary precondition for politically responsible action in the controversial field of migration and integration policy.

This contribution begins by illustrating differences and relationships among these concepts and clarifies their status in (international) law. Building on that, we present the regulatory approaches related to refugees, migration, and integration that currently exist both globally and within the EU. We demonstrate that numerous multilateral instruments exist in the policy field pertaining to refugees, which, however, are not applied in pressure situations. On the contrary, migration and integration remain largely matters of national policy. This leads to tension and contradictions, which need to be addressed at the European policy level if Europe is to (re)act more effectively and prevent human suffering. With regard to refugee immigration in particular, we argue for a European solidarity mechanism to replace the failing Dublin sys-

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1 Cf. Spiegel Online, *Neue Asylzahlen: De Maizière meldet deutliche Entspannung in der Flüchtlingskrise* [New Asylum Figures: De Maizière Announces Major Improvement in the Refugee Crisis], 8 July 2016, at: <http://www.spiegel.de/politik/deutschland/fluechtlinge-thomas-de-maiziere-meldet-wenige-asyl-suchende-a-1101991.html>.

tem. We also call for improved opportunities for regular migration. This would enable the development of more sophisticated policy instruments, the provision of support for integration processes, and the closure of gaps in the Schengen legal framework. There is an urgent need to upgrade institutions concerned with migration and integration policy at both the national and the European level. To this day, Germany, which is a particular focus of attention in this contribution as a result of its central role in dealing with the “refugee crisis”, has neither a national immigration law nor a federal ministry with appropriate responsibilities.

Refugees – Migration – Integration

The enormous increase in the numbers of people seeking refuge, especially in the southern states of Europe, has forced the EU to confront several of its structural weaknesses. It has become evident that the existing arrangements for refugee relief and the mechanisms for control of the EU’s external borders developed in the last 20 years are not sufficiently robust. The political debate over the “refugee crisis” – i.e. the EU’s crisis in dealing with the flight of large numbers of refugees from neighbouring conflict areas – also reflects just how badly the policy fields of refugees and asylum, migration and integration have been neglected in general. Driven by fear of a general collapse of political order, and not infrequently accompanied by a barely disguised xenophobia, in recent years there have been calls for summary deportations and the rejection of asylum applications that would infringe international law and human rights. Immigration – whether in relation to people seeking refuge or migrant workers – is a major topic in political campaigns throughout Europe. Yet the public discourse all too often lacks a basis in factual knowledge and the nuanced vocabulary necessary to evaluate the phenomena of migration and the legally possible options for political action.

Refugees

Although the media and politicians tend to apply the term “refugee” to all individuals who arrive in the EU in an irregular way, it is in fact a precisely defined term in international law. The 1951 Refugee Convention and the 1967 Protocol to the Convention define as a refugee any person who, “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country”.² Refugees in the

2 Convention Relating to the Status of Refugees, Article 1A (2), in: UNHCR, *Convention and Protocol Relating to the Status of Refugees*, pp. 13-45, here: p. 14, at: <http://www.unhcr.org/3b66c2aa10> (hereafter: Refugee Convention).

sense of the Convention have a right to international protection. The overwhelming majority of states worldwide recognize the Convention and the Protocol, including all EU member states.³ In some states, this is strengthened by national laws. In Germany, for instance, the right to asylum is enshrined in the constitution.⁴

Refugee status and the right to protection are rights that apply to individuals; two principles can be derived from this, which are also binding under customary international law: the principle of non-refoulement,⁵ and the prohibition of discrimination.⁶ The former entails that no-one may be returned to a country in which their life or freedom would be threatened. Non-discrimination requires that no-one is disadvantaged because of their race, religion, or nationality by, for instance, being denied the opportunity to apply for asylum. However, since not all individuals who cannot be sent back to their country of origin as a result of the ban on refoulement are refugees in the sense of the 1951 Refugee Convention, an additional category of protection has emerged: the concept of “subsidiary protection”. This can be granted, for example, to people who face grave danger in their home countries as a consequence of civil war even though they do not belong to a political or social group that is explicitly facing persecution by state or non-state actors.

Migration

While the concepts of refugee and asylum have precise legal definitions, migration and migrant do not.⁷ On the one hand, they are used as overarching terms for anyone who shifts their principal place of residence (usually across national frontiers), whether for work or private reasons, and whether voluntarily or not. At the same time, the terminology of migration is also used in explicit contrast to “refugee” to refer to individuals who are not currently recognized in law as facing persecution. Admittedly, this need not mean that they left their home countries entirely without external pressure. In the academic debate, therefore, concepts such as “crisis migration”, “survival migration”, “migration in the face of violence”, and “forced migration” are used to describe people fleeing from physical violence, absolute poverty, or environmental catastrophes. This can also include the category of climate refugees, i.e. people whose livelihood has been destroyed by environmental

3 Cf. UNHCR, *States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol*, April 2015, at: <http://www.unhcr.org/3b73b0d63.html>.

4 Article 16 of the Basic Law.

5 Article 33 of the Refugee Convention.

6 Article 3 of the Refugee Convention.

7 It is worth noting that, in EU parlance, migrants are not only “third-country nationals [...] coming from countries outside the EU and not holding the citizenship of an EU country”, but also “persons born in the EU but not holding the citizenship of a Member State”. European Commission, *European Agenda for the Integration of Third-Country Nationals*, COM(2011) 455 final, Brussels, 20 July 2011, p. 3, footnote 9, at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2011:0455:FIN>.

change. By using this precise vocabulary, migration research is able to focus attention on the global connections between various forms of migration and the political factors that ultimately cause people to flee. The concept of forced migration illustrates that there is simply no clear opposition between “real” refugees and “voluntary” migrants who are allegedly “only” seeking a more comfortable existence in another state and who are therefore often dismissed as “economic migrants” or “bogus refugees”.

Integration

In relation to the acceptance of migrants – both refugees and others – a further highly politicized term is often used: the concept of “integration”. Within the EU, responsibility for integration policy rests entirely with the member states. However, different states have entirely different histories of migration. France, Germany, and the United Kingdom have long been countries of destination for large numbers of immigrants – even if political rhetoric in Germany has long tried to deny this fact. By contrast, Eastern European states such as Poland have tended to be countries of origin for migrants in recent times and possess a corresponding lack of experience in dealing with immigration. In view of these differences in national self-image, institutional differences among countries, and the requirements migrants have to fulfil, e.g. in order to enter the job market, the primacy of national law in the area of migration policy is unlikely to change in the foreseeable future. Nevertheless, both empirical studies of the different effects of the various national integration strategies (e.g. the use of naturalization policy in France, Germany’s assimilatory policy, or the multiculturalist approaches taken in countries such as the Netherlands and Britain) and the increasingly loud calls from the private sector for an integration policy to support the immigration that is desirable from an economic and demographic perspective (including immigration from non-EU countries) have led to the adoption of a European framework strategy. Under the aegis of the European Commission, a set of Common Basic Principles were adopted in 2004, and a Common Agenda was drawn up in 2005 to serve as the foundation for member states’ policies. All these measures draw on a concept of integration as a “dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States” in accord with “the basic values of the European Union”.⁸ This clarification of terminology is nothing new in the academic discourse, but a noteworthy departure in the area of policy. This is because the integration policies effectively being followed by many EU states, as well as the views that dominate public discourse within them frequently do not see integration as a “two-way process” that also makes demands on the “majority population”, but rather as a matter of migrants adjusting to existing conditions and customs. It is be-

8 European Commission, *EU actions to make integration work*, at: <https://ec.europa.eu/migrant-integration/the-eu-and-integration/eu-actions-to-make-integration-work>.

cause of this that the concept on “integration” is often treated with caution by critical researchers, as it carries more of a sense of assimilation than inclusion.

Regulatory Practice: Between International Refugee Protection and National Sovereignty

As this review of terminology suggests, there is little binding regulation of migration at the international level. No international institutions exist to deal with migration in a way comparable to those that, since the 1950s, have attempted to provide protection and find solutions (by facilitating returns, integration in countries of first arrival, or permanent resettlement in third countries) in the field of refugees, i.e. the Refugee Convention, the Protocol, and the United Nations High Commissioner for Refugees (UNHCR).

The situation is similar within the EU, which has few common instruments for dealing with migration when compared to refugees. Admittedly, this policy area was given a symbolic status boost during the reorganization of the European Commission in 2014, when the Home Affairs department was redesignated the Directorate-General for Migration and Home Affairs. The European Council has also reaffirmed the Common Basic Principles for integration policy. By encouraging a) integration via participation, b) intensified action at the local level, and c) the involvement of countries of origin, these principles are intended to create conditions that will enable immigrants to participate successfully in the economic, social, cultural, and political lives of member states. However, unlike refugee policy, immigration remains largely the responsibility of the member states, and the EU can provide little more than guidelines. This is surprising given that internal freedom of movement in the EU means that the various national migration policies and conditions for naturalization (can) affect the entire European Union.

While very little headway has been made in migration policy at the EU level, progress is more evident when one looks at individual member states. In Germany, for instance, the grand delusion that Germany is not a permanent home of immigrant populations has been abandoned even by many conservatives in the last 15 years. Prior to that, Germany’s governing Social Democratic/Green coalition (1998-2005) had already introduced limited birthright citizenship to better reflect reality and make Germany more attractive as a destination for migrants. With an eye on German demographic developments, economists and other social scientists have called for even greater openness to immigration as a necessary means of stabilizing the national economy and social security system in an aging society. Nonetheless, Berlin has still not introduced a national immigration law, very much as though out of fear that to take a stronger pro-immigration position would risk alienating voters. This is despite the fact that the Expert Council of German Foundations on Integra-

tion and Migration has reported for years now that there is a high degree of openness towards increasing levels of immigration in Germany, and not only in terms of the “competition for the best and the brightest” but also on humanitarian grounds. The willingness shown by Germans in the last year to take in and support refugees has confirmed this impressively. Moreover, although many Germans have been strongly critical of their government in 2015-2016, partly as a consequence of a lack of information, partly as a result of the disputes within German politics on how to proceed, a majority continued to be in favour of accepting people fleeing political persecution and war;⁹ in spring 2016, 61 per cent of Germans polled stated that they had few or no concerns about the influx of refugees.¹⁰

In contrast to migration policy, European regulations concerning refugees have expanded considerably in the last two years. The development of the Common European Asylum System (CEAS) was intended, on the one hand, to ensure that asylum seekers cannot make applications in more than one EU member state. At the same time, the CEAS aimed to establish minimum standards for refugee protection throughout the EU. These rules are founded in documents such as the EU Charter of Fundamental Rights and the Schengen Borders Code. There were also advances in determining the need for protection, including the recognition of non-state and gender-based persecution. However, a communized European asylum system that offers effective protection does not exist. EU measures frequently concentrate on projects relating to border management and the deterrence of people seeking refuge. The willingness to act in solidarity with refugees and to share responsibility within the EU have not developed at the same pace. The Dublin Regulation, for instance, which is at the heart of the EU’s asylum policy regulations, does not differentiate between member states that are easily capable of supporting large numbers of asylum seekers and those that are not. Even in the face of the drama that has dominated the picture since summer 2015, existing mechanisms for the event of a “mass influx” have not been activated. Instead, the European Commission, with reference to Article 78 (3) of the Lisbon Treaty, sought to establish a provisional mechanism for the relocation of people seeking refuge. This aimed to relieve the pressure on countries of first arrival, such as Italy and Greece in particular. However, the negative responses by many member states to this programme make clear just how far the EU is from finding a concerted solution.

9 Cf. infratest dimap, Umfragen & Analysen, *ARD-DeutschlandTREND, Februar 2016*, at: <http://www.infratest-dimap.de/umfragen-analysen/bundesweit/ard-deutschlandtrend/2016/februar>.

10 Cf. infratest dimap, Umfragen & Analysen, *Flüchtlingsaufnahme: Deutsche fühlen moralische Verpflichtung, viele betrachten die Zuwanderung aber auch mit Sorge* [Taking in Refugees: Germans Feel a Moral Obligation, Yet Many also Have Concerns about Immigrants], May 2016, at: www.infratest-dimap.de/umfragen-analysen/bundesweit/umfragen/aktuell/fluechtlingsaufnahme-deutsche-fuehlen-moralische-verpflichtung-viele-betrachten-die-zuwanderung-aber.

The will towards European solidarity while respecting the fundamental rights of people seeking refuge is weak. By early July 2016, only 2,826 people had been resettled within the EU.¹¹ Slovakia and Hungary have even filed a lawsuit with the European Court of Justice against the relocation process passed by a majority of EU interior ministers in autumn 2015 with opposition from Hungary, the Czech Republic, Slovakia, and Romania. Hungary also held a referendum in October in which the mechanism was rejected by an overwhelming majority, but which failed to achieve the necessary turnout. Without resettlement, responsibility for processing asylum applications and accommodating or returning applicants falls disproportionately on Greece and Italy in particular. Greece's complete inability to manage these tasks, even before the dramatic rise in refugee numbers, was demonstrated by several European court decisions, as a result of which the return of refugees to Greece is no longer permitted.¹² Yet other member states have also been reluctant to implement all the provisions of the CEAS adequately. In October 2015, the European Commission adopted infringement decisions against 19 member states in 40 cases of failure to implement EU asylum legislation.¹³

The fact that decisions and measures already adopted are implemented inadequately or not at all is one thing. In addition, the intensification of the political crisis in summer 2015 has pushed a key aspect of the European migration agenda¹⁴ into the background, namely the expansion of *legal* opportunities for immigration – within and outside the international protection system. With regard to the former, the Commission called for the creation of Europe-wide resettlement quotas. The possibility of opening paths to the legal immigration of a substantial number of refugees at least from Syria was also reflected in the agreement between Turkey and the EU of March 2016. However, implementation of this deal has been slow. As of 15 June 2016,

11 Cf. European Commission: *Member States' Support to Emergency Relocation Mechanism*, at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_relocation_en.pdf.

12 Key decisions included the judgments of the European Court of Justice (ECJ) in cases C-411/10 and C-493/10 of 21 December 2011, and the ruling of the European Court of Human Rights (ECtHR) on Application no. 30696/09, of 21 January 2011.

13 Cf. European Commission, *More Responsibility in managing the refugee crisis: European Commission adopts 40 infringement decisions to make European Asylum System work*, press release, Brussels, 23 September 2015, at: http://europa.eu/rapid/press-release_IP-15-5699_en.htm.

14 European Commission, *A European Agenda on Migration*, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Brussels, 13 May 2015, COM(2015) 240 final, at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf.

only 511 Syrians had been able to enter an EU member state from Turkey legally.¹⁵

Opportunities for immigration outside the asylum system have improved even less. However, they do represent a key means of reducing the level of illegal migration and developing more flexible regulations, e.g. by simplifying temporary migration. Creating more opportunities here could take pressure off the asylum system, as individuals whose chances of receiving asylum were poor would have other ways to escape their lack of prospects in their home countries. Even with better efforts to address the factors that lead to people becoming refugees, large-scale migration is not a temporary phenomenon, nor in a globalized world does simply closing the borders offer any kind of long-term solution. This is why it is necessary to permanently strengthen the ability of European states and societies to accept the normality of immigration and to address the conflicts that this doubtlessly also provokes. The frequently voiced objection that Europe cannot take in “the whole world” fails to acknowledge (alongside the fact that Europe remains a relatively insignificant destination for migrants in global terms) that legal channels for migration provide a means of regulating migrant flows – while also ultimately improving the prospects of integration.

Europe still displays major failings in terms of integration policy; this includes Germany, even though the Federal Republic demonstrated in autumn 2015 that it was far more willing to accept refugees than other EU states. This is a continuing consequence of decades of denying the reality of immigration. While the Annual Reports of the Expert Council of German Foundations on Integration and Migration have been positive for years, this is not so much the result of targeted policies, but rather a consequence of self-help initiatives, civil-society engagement, and the integrative effect of economic activity (which also includes the social security system). Germany continues to have difficulties in developing state structures and offerings, as this requires the abandonment of established categories of thought: One central failing is the tendency for Germany’s integration policy to focus primarily on those it treats as alien rather than on the creation of a general political culture that supports the equal participation of all groups within society. One effect of this is that commonalities that cut across the origins of individuals are easily overlooked, while questionable images of collective identity are accepted uncritically.

Despite the problems associated with the underlying “us/them” approach to integration policy in Germany (and not only in Germany), we should not overlook the fact that the language and orientation courses offered to recent arrivals in Germany in the last decade mark the first attempt to provide systematic opportunities for the acquisition of skills that have a crucial

15 Cf. European Commission, *Managing the Refugee Crisis: Commission reports on progress made in the implementation of the EU-Turkey Statement*, press release, Brussels, 15 June 2016, at: http://europa.eu/rapid/press-release_IP-16-2181_en.htm.

significance for participation in social and political life and access to education and the job market. However, very little has been done politically to promote an integration process that is supposedly conceived of as a two-way street. This failure to hold a thoroughgoing debate on the basis of social co-existence is an omission with serious consequences. The electoral success of the right-wing populist Alternative für Deutschland (Alternative for Germany) party (AfD) and the rise in the number of attacks on refugee homes demonstrate the urgency with which racist positions need to be called out by name. The shock of the sexualized violence perpetrated by a number of migrants in several German cities on New Year's Eve 2015 catapulted certain issues and prejudices into the political arena in early 2016 that need to be taken seriously. Right-wing and right-wing populist parties have also been enjoying successes in other European states, such as France and Austria. If the immigration debate is to become a constructive process, it is important that political discussions and media reporting remain sophisticated, objective, and fair instead of calling into question in a sweeping manner immigration, the right to participate, and the willingness of immigrants to integrate.

Recommendations for Action: Reform Institutions, Strengthen Social Cohesion

The deficits mentioned above, the experiences of people around the world, and the results of research in policy fields pertaining to refugees, migration, and integration lead us to define three central challenges facing Europe and the world:

1. *Go beyond Dublin:* The crises of 2015-2016 have made it clear that the Dublin system is not working. It suffers from two congenital defects: It takes into account neither the differences in the ability of EU member states to cope with refugees nor the capacity for action on the part of those seeking refuge, who do not always remain in the state deemed "responsible" for them. The long-scheduled evaluation of the Dublin Regulation by the European Commission in 2016 provides the ideal opportunity to replace or fundamentally overhaul the current system. It remains necessary to establish a binding solidarity mechanism that would at least partially uncouple responsibility for securing the EU's external borders from responsibility for admitting refugees, despite the strong resistance of a number of governments. The European Commission has been attempting to move this process forward since the summer of 2015, and it deserves support. The aim here should be to both create – in a fair procedure – opportunities for the resettlement of refugees while also providing financial and administrative support to states that face particular challenges. Furthermore, solidarity – both within the EU and with refu-

gees – requires the establishment of equal access to protection in terms of opportunities for recognition and prospects for participation – in other words, the implementation of the CEAS, as repeatedly demanded by the courts. This, in addition, could contribute to ameliorating Dublin's second congenital defect by stopping people seeking refuge from leaving the country they are assigned to and travelling on by irregular means. Another way of preventing this kind of secondary migration would be to expand the freedom of movement of recognized refugees within the EU: If individuals who have received protection status in a given state were allowed to immediately seek work, training, or university places in other EU states – as is already the case for EU citizens and others with a right to long-term residency – the question of who was responsible for the asylum application would be less fateful. Recognized refugees would be empowered to make life decisions autonomously, e.g. relocating to be near friends or relatives, without being forced to break the law or to put their lives on hold.

2. *Expand Opportunities for Regular Migration:* For many people subject to severe violence or persecution, irregular routes provide the only opportunity they have to gain protection. The same is true of those people who see no prospect of a life without poverty and hardship in their home countries. Since irregular migration is associated with numerous dangers and, moreover, limits opportunities to manage the movements of immigrants, there is a strong argument in favour of expanding opportunities for regular immigration. In the context of refugee protection, this would primarily entail a major increase in resettlement quotas in *all* the states of the Global North. The UNHCR must be empowered to provide refugees with long-term protection via resettlement; it also requires far more resources to support those seeking refuge in their regions of origin. This requires all the states that have promised financial assistance for humanitarian aid, including at the Syria Conference in February 2016, to keep their promises. In the area of migration, new opportunities for the immigration of less-qualified individuals should also be explored. While European freedom of movement means that pan-European co-ordinated measures are desirable in principle, initial steps could also be taken at the national level in the form of immigration laws. Here, German policy-making, for example, has lagged behind not only recent developments in immigration but also the regulatory progress made in countries such as France and Portugal.
3. *Strengthen Social Integration:* While every priority should be given to a comprehensive effort to combat the causes of forced migration, people will continue to flee to Europe and Germany, and other migrants will continue to arrive. Many of those who have arrived in recent years will also remain. To ensure that they are not marginalized on account of their alleged otherness, European societies need to become more willing to

include them as members with equal rights and the ability to participate, and to accept that social heterogeneity is the norm and requires a two-way effort at integration. While the establishment of legislation to ensure equal treatment and legal guarantees for migrants is a long-term goal of the EU, politically it is unlikely to be achieved in the short term. Therefore, it would be foolish to wait for Europe to act in this area.

4. For Germany, which appears destined to play a pioneering role in Europe, the establishment of a federal ministry for migration and integration could raise the profile of this policy area while contributing to the co-ordination necessary between Germany's constituent states and with its European partners. Across Europe, a range of complementary activities are also necessary, in areas such as education, combating youth unemployment, and the provision of social housing, to prevent conflict over resources between new arrivals and more-established population groups and to ensure that migration "expands the pie". Germany's capacity for integration also has to be strengthened by a culture of political debate that discusses controversial topics openly, not least in order to counteract right-wing populist propaganda with factual arguments.

Managing Migration – The OSCE’s Response

Introduction

Migration has emerged as an increasingly prominent issue on the OSCE agenda as a consequence of the recent massive influx of refugees and migrants into Europe. Yet this was not initially the case. Unlike specialized agencies such as the United Nations (UN) High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM), which undertook humanitarian efforts on the strength of their specific operational capabilities and expertise, the OSCE had no direct role in addressing the immediate challenges presented by the 2015-16 surge in refugee and migrant flows in the OSCE region. The closest the OSCE came to frontline involvement was along what became known as the “Balkan route”. Here, OSCE field operations, foremost among them the Mission to Skopje and the Mission to Serbia, monitored the impact of the flows of migrants and refugees on the security, human rights, and rule of law situation in their host countries and acted as a conduit of information between people on the move, citizens, civil society organizations, and national authorities, including law enforcement agencies.

With the crisis in and around Ukraine occupying centre stage on the OSCE agenda last year, the OSCE foreign ministers who gathered in Belgrade in December 2015 for the annual Ministerial Council were not quite ready to embrace the migration issue politically within the OSCE context, precluding the possibility of assigning any particular role to the Organization on that occasion. Given the OSCE’s diverse membership and the consensus rule for decision-making, a more visible, timely, and strategic OSCE response to these unprecedented developments was simply not on the cards.

This situation began to shift in 2016 with the realization that managing migration and refugee flows and their impact will be a defining global and European security challenge for many years to come. Following an internal stocktaking of existing OSCE migration-related activities and a comprehensive discussion within a dedicated format, OSCE participating States have developed greater awareness of how the OSCE *acquis* covers migration and where the OSCE possesses relevant expertise that could potentially help to address a variety of short-, medium-, and long-term migration-related chal-

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allenges. In anticipation of further guidance by the OSCE participating States, the OSCE Secretariat, institutions, and field operations have adapted their work on migration-related issues, adding emphasis where this seems opportune and making proposals on possible future engagement in this area. Most of these changes take the form of ad hoc initiatives that remain within their existing mandates while seeking synergies with relevant external partners. There is now a much broader understanding that the OSCE can and should contribute to addressing the challenges of migration. As a result, the OSCE's role is likely to come into clearer focus in the coming months, as the Organization defines its place alongside other multilateral actors.

Migration in the OSCE Context

The impact of the current levels of migrant and refugee flows on individual OSCE participating States varies from case to case, but the political, social, and economic repercussions are being felt throughout the OSCE area, and bring with them significant risks for regional and global stability. Populist movements and nationalist political groups are spreading fear and xenophobia, polarizing societies, and making it even harder for European governments to develop effective, responsible, and co-ordinated responses. People-smuggling and trafficking in human beings continue to put individuals at great risk and provide organized crime with huge profits.

The 57 OSCE participating States and eleven Mediterranean and Asian Partners for Co-operation include key countries of origin, transit, and destination. Among those most affected, Turkey still hosts the world's largest refugee population of more than 2.5 million people. Germany, one of the preferred destination countries, has given refuge to over a million individuals, while Sweden and Austria have taken in slightly more in proportion to the size of their populations. In relative terms, Jordan, an OSCE Partner for Co-operation, is sheltering a million refugees, equivalent to over ten per cent of its population of 9.5 million. Meanwhile, Greece, in the midst of an existential economic and financial crisis, continues to struggle to provide accommodation to refugees and migrants who continue to arrive, but are now barred from moving on to other destinations. Italy has recently seen a resurgence in the number of people arriving on its coastlines. In 2015, OSCE participating States along the Balkan route processed hundreds of thousands of migrants moving across their borders. Since the closure of the frontier between Greece and the former Yugoslav Republic of Macedonia to most categories of refugees in February 2016 and the EU-Turkey deal in March, the influx has been reduced significantly, but refugees and migrants resorting to people smugglers continue to find ways to circumvent border controls.

Within the geographic boundaries of an area stretching from Vancouver to Vladivostok, other migration flows remain significant. They are part of the

overall picture, though much less discussed. Migration from Latin America to the United States and Canada has played hardly any role in OSCE debates. However, the influx of migrant workers from Central Asia into Russia has on occasion been raised as a concern, particularly since this movement has reversed due to Russia's economic downturn. Hundreds of thousands of migrant workers have returned to their countries of origin in recent years, depriving these economies of much-needed remittances and investment and adding fears to existing concerns about growing instability in parts of Central Asia. Most attention currently remains fixed on the Mediterranean and Balkan routes into Western Europe, as well as on the wars, political upheaval, and crisis-prone areas in the Middle East and Africa. Even though OSCE participating States may have very diverse perspectives on the immediate impact of the phenomenon on their own societies, there is a growing sense that concerted efforts offer the best hope for managing the security issues related to migration and thereby maintaining security and stability across the region.

The first reference to migration in OSCE documents is already found in the 1975 Helsinki Final Act, which included a section on "economic and social aspects of migrant labour". The 2005 Ljubljana Ministerial Council Decision on Migration¹ and the 2009 Athens Ministerial Council Decision on Migration Management² focused squarely on the effective governance of labour migration, which has since developed into an important part of the OSCE's work.³ However, labour migration is only one area of OSCE engagement, albeit one that is highly relevant. The OSCE participating States have adopted commitments and the OSCE has developed specific expertise not only on migration-related issues such as human trafficking, cross-border criminal activities, border management, and police co-operation, but also on protecting human rights and promoting tolerance and non-discrimination. The latter are particularly significant to ensure that responses are centred on the needs and rights of the individuals concerned. More broadly, the OSCE has a track record of working to address sources of insecurity that are the root causes of displacement and migration, including not only conflict, poverty, and human rights abuses, but also climate change and environmental degradation. In various places, whether in the Western Balkans, the Southern Caucasus, or parts of Central Asia, the OSCE has a long track record of working with internally displaced people (IDPs) and refugees, supporting political frameworks and projects aiming at reintegration and return.

1 Cf. Organization for Security and Co-operation in Europe, Ministerial Council, Ljubljana 2005, *Decision No. 2/05, Migration*, MC.DEC/2/05, 6 December 2005, at: <http://www.osce.org/mc/17339>.

2 Cf. Organization for Security and Co-operation in Europe, Ministerial Council, Athens 2009, *Decision No. 5/09, Migration Management*, MC.DEC/5/09, 2 December 2009, at: <http://www.osce.org/cio/40711>.

3 For more information on the OSCE's work in support of labour migration governance, see: <http://www.osce.org/publications/migration>.

The 2016 German OSCE Chairmanship is pushing for an OSCE ministerial decision or declaration on migration at the Ministerial Council in Hamburg (8-9 December 2016) that would acknowledge the link between migration and security and could spell out the OSCE's role in addressing migration-related challenges with greater clarity. At last year's Ministerial Council in Belgrade, the OSCE participating States came close to agreeing on a ministerial declaration. Interest was high, and the 2015 Serbian Chairmanship spared no effort in attempting to build consensus in negotiations that continued to the very end, even though they eventually proved unsuccessful. Apart from issues of substance, the overall political climate in the context of continued fighting in Eastern Ukraine played its part, but so too did completely unrelated matters that were thrown into the negotiation mix and could not be resolved in the final hours of the meeting. A stronger recognition of the multifaceted challenges and a better understanding of existing OSCE engagement in migration-related areas might have helped participating States to tackle their remaining differences earlier in the negotiation process.

The lesson from Belgrade was precisely that a more structured process for discussion would be needed to prepare the way for a more positive outcome the next time round. This process was kick-started by an OSCE Security Days event on "Refocusing Migration and Security – Bridging National and Regional Responses" hosted by the Italian foreign ministry in Rome on 4 March 2016.⁴ The OSCE Security Days, a Track II conference series introduced by OSCE Secretary General Lamberto Zannier in 2012, inject fresh perspectives into the OSCE security debate on emerging trends and priorities for OSCE action. The explicit purpose of the event in Rome was to launch a broad debate about the OSCE's role in addressing migration-related challenges. Keynote speakers included President Gjorge Ivanov of the former Yugoslav Republic of Macedonia and Professor Jeffrey Sachs, the UN Secretary-General's Special Advisor on the UN's Sustainable Development Goals.

In Rome, the 2016 German OSCE Chairmanship announced its intention to set up an Informal Working Group (IWG) Focusing on the Issue of Migration and Refugee Flows. Chaired on behalf of the Chairmanship by the Swiss Permanent Representative to the OSCE, Ambassador Claude Wild, the IWG immediately took up its work, meeting seven times between 16 March and 27 June 2016. Reflecting the OSCE's comprehensive approach, five main themes were explored during these meetings: protection, combating crime, border management, successful integration, and solidarity and partner-

⁴ For an account of the proceedings, video footage, supporting documents, and the final report, see: <http://www.osce.org/secdays/2016/migration-and-security>.

ships. The testimony of experts and subsequent discussions involved participating States, Partners for Co-operation, relevant specialized departments and units of the OSCE Secretariat, the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the OSCE High Commissioner on National Minorities (HCNM), the OSCE Representative on Freedom of the Media (RFOM), the OSCE Parliamentary Assembly (PA), international partner organizations, NGOs, civil society, and academia. In addition to oral presentations, written contributions to the process included non-papers by a number of delegations, a paper by ODIHR, and updates on developments and activities by OSCE field operations and Secretariat units, which covered areas including gender-sensitive migration governance and long-term trends. A full compilation of migration-related activities carried out by the OSCE Secretariat, institutions, and field operations was also produced. Briefings by the IOM and UNHCR, as well as a number of think-tanks were instrumental in informing the debate.

Complementing the discussion in the IWG, other OSCE forums such as the three subsidiary consultative bodies to the Permanent Council (the Security, Economic and Environmental, and Human Dimension Committees) continued to debate migration and refugee issues. Along with other major OSCE events in these three dimensions of security, the OSCE's 2016 Annual Security Review Conference, a three-day event for security dialogue, devoted a special session to migration. In June 2016, the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA) organized an expert meeting that aimed at defining priority areas for enhancing the OSCE's long-term approach to migration governance from the perspective of the economic dimension of security.⁵

Migration has also been in the spotlight at OSCE PA meetings over the past two years. In February 2016, the OSCE PA's General Committee on Democracy, Human Rights and Humanitarian Questions released a report entitled "Migration crisis in the OSCE area: towards greater OSCE engagement", which was also presented at a meeting of the IWG.⁶ This publicly available report outlines key challenges facing the OSCE area and makes recommendations for OSCE participating States, institutions, and national parliaments. Given the Committee's remit, it focuses mainly on humanitarian and human rights-centred responses.

Civil society also provided input through various channels. With the support of the OSCE Chairmanship, experts from thirty civil society organizations as well as OSCE bodies and institutions met in Berlin in February 2016 for an expert workshop on migration organized by the Civic Solidarity

5 Cf. OSCE OCEEA, *Expert meeting, Enhancing the OSCE long-term approach to migration governance: the OCEEA contribution, Vienna, 17 June 2016, Key Findings*, at: <http://www.osce.org/secretariat/255316>.

6 Cf. OSCE PA, *Migration Crisis in the OSCE Area: Towards Greater OSCE Engagement*, February 2016, available at: <https://www.oscepa.org/documents/all-documents/winter-meetings/2016-vienna-1/reports-1>.

Platform, an advocacy network of civic groups from across the OSCE region. Though not officially connected to the OSCE, the platform has become well known for organizing civil society conferences during and close to the venue of OSCE Ministerial Council Meetings and for addressing recommendations centring on human rights to OSCE participating States and OSCE institutions. Most recently, the platform presented its recommendations on migration and refugees at a side-event of the September 2016 OSCE Human Dimension Implementation Meeting in Warsaw.

From Self-Reflection to Further Action

Throughout this period of reflection, different parts of the OSCE family reacted to the migration and refugee challenge by flexibly refocusing some of their programmes and activities or by intensifying activities already targeting critical issues, for instance in the OSCE's labour migration portfolio. Without spelling out a detailed list of responses or proposals for further action, the following examples give a good indication of the substantive contribution the OSCE could make if the participating States endorsed the Organization's stronger involvement. This year, the OSCE Special Representative and Coordinator for Combating Trafficking in Human Beings undertook a number of fact-finding visits, which took her to a temporary protection facility in Gaziantep, Turkey, in May 2016, and a transit facility in Busmantsi, Bulgaria, in June. Together with parliamentarians from the OSCE PA, she visited reception centres in Lampedusa and Catania, Italy, in June, and migrant and refugee hotspots in Greece in September. Her visits aimed at raising awareness and gathering first-hand impressions that will help her Office to support the early identification and protection of potential victims of trafficking in mixed migration flows. Meanwhile, the Transnational Threats Department has placed added emphasis on migration-related crime and trafficking in human beings in a number of its activities, strengthening co-operation with partner organizations, including the UN Office on Drugs and Crime (UNODC), IOM, Interpol, Europol, and Frontex. On border management, where the Secretariat is working on creating an informal platform for the exchange of good practices on a wide array of cross-border threats and challenges, migration will feature prominently. Thought has also gone into establishing migration response teams to deliver on-site training to border law enforcement agencies.

Among the OSCE's institutions, ODIHR has developed proposals for mobile teams to monitor the human rights situation at borders and reception centres. On account of its extensive experience with migration governance, ODIHR has considerable potential to contribute to a concerted OSCE response, including by promoting non-discrimination and the integration of migrants and refugees in their host countries. The HCNM has begun to look at the potential implications of large-scale movements of people on societies

with national minorities. On the basis of OSCE commitments such as the 2012 Ljubljana Guidelines on Integration of Diverse Societies,⁷ the HCNM tries to support participating States in implementing policies that promote stability and good inter-ethnic relations. The RFOM has, on various occasions, issued public statements expressing concern about infringements of the rights of journalists to report on matters of public interest, in this case in relation to stories and commentary on migration or refugees.

The expansion of OSCE initiatives and projects to specifically cover migrants and refugees can be envisaged across the board. For example, the Secretariat's Gender Section is considering establishing mentoring networks for migrant and minority women modelled on previous initiatives for women entrepreneurs in South Eastern Europe. In many cases, the OSCE Missions to Serbia and Skopje play a crucial role in the delivery of programmes and projects on the ground.

Raising awareness about current activities and possibilities for future action has been an integral part of the discussion within the framework of the IWG and in other OSCE bodies. This has contributed significantly to an awakening realization of the breadth of existing OSCE mandates in areas closely related to migration (labour migration, border management, countering transnational threats and human trafficking, human rights protection, tolerance and non-discrimination). It has also fostered awareness that the OSCE, thanks to its comprehensive concept of security, is particularly well placed to promote a holistic approach that treats the safety of people on the move and the security of states as mutually supportive goals.

The outcome of the IWG deliberations was summarized in a report by Ambassador Wild, which was presented to a special session of the OSCE Permanent Council on 20 July. The report, which is not a consensus document, is an important reference for internal discussion, but has also attracted interest outside the OSCE and been shared with key partner organizations. It provides an overview of what the OSCE is already doing under existing mandates and advocates a comprehensive role for the Organization. Its recommendations, fifty in total, propose concrete actions at the political, institutional, and technical levels, measures by which the OSCE could contribute to more effective governance of migration and refugee flows affecting the OSCE area – both now and in the future. The report's recommendations are directed at both the participating States and the OSCE Secretariat, institutions, and field operations, which are called upon to study them carefully in terms of feasibility and consistency with existing mandates. The list of recommendations is not exhaustive, and further ideas are certain to emerge. In some cases, the recommendations are already being implemented, but consideration could be given to strengthening relevant activities. Not all proposed actions require additional financial and staff resources, but many do.

7 Cf. OSCE HCNM, *The Ljubljana Guidelines on Integration of Diverse Societies*, November 2012, available at: <http://www.osce.org/hcnm/96883>.

Synergies will need to be considered, as will the risks of duplication with other organizations. In terms of timelines for implementation, short-, medium-, and long-term objectives need to be identified. Finally, many proposed initiatives require different organizational units to work closely within a joint framework of clearly defined roles.

The OSCE Secretariat, institutions, and field operations are currently carrying out an internal assessment of the recommendations, steered by an ad hoc working group set up within the Secretariat in early 2015. This has provided an internal platform for exchanging information on migration-related activities and assessing OSCE options for action. The working group also provided advice and support to successive Chairmanship efforts to encourage discussion among the participating States, particularly this year in relation to the IWG. It is chaired by the Director of the Office of the Secretary General and, at working level, co-ordinated through a focal point within this Office. One of the Wild Report's recommendations is to replace this ad hoc arrangement with a more formal and dedicated support structure led by a Special Representative/Co-ordinator. The Secretariat would ideally like this person to work from within the Secretariat and to be endowed with the authority and resources necessary to strengthen internal coherence and external visibility, thereby enhancing the impact of OSCE migration-related activities.

Strengthening Partnerships

Migration has become a key topic for dialogue with the OSCE's Mediterranean Partners for Co-operation at regular Mediterranean Contact Group meetings in Vienna and the annual OSCE Mediterranean Conference. It is also a common theme in discussions with organizations with a strong Mediterranean focus, such as the Union for the Mediterranean and the League of Arab States. Opportunities for sharing expertise with the Mediterranean Partners are plentiful, but not always taken up. One complicating factor is that the mechanisms to promote such co-operation could be more effective if the OSCE participating States would agree to simplify them. For instance, the arrangement known as the Partnership Fund is mostly used to sponsor the participation of experts from OSCE Mediterranean Partner Countries in OSCE events. Without the unanimous consent by the participating States, it cannot be used to support meetings in the Partner Countries themselves, and the financing of such meetings through the OSCE's unified budget is also precluded.

One idea for visibly enhancing the Mediterranean Partnership foresees the establishment of some sort of OSCE Centre for Mediterranean Security, which would focus on a range of cross-dimensional issues, including migration. A centre of this kind could take on a co-ordination role for OSCE activities targeting the Mediterranean Partner Countries, reach out to stakeholders beyond OSCE circles, and develop joint projects with other regional

organizations, UN agencies and non-governmental actors, including by exploring private sector involvement and support. It could possibly be established in one of the Mediterranean participating States and provide a distinct platform for engaging the OSCE's Mediterranean Partners (Algeria, Egypt, Israel, Jordan, Morocco, and Tunisia) through dialogue, research, training, and project development.

The establishment of an OSCE Mediterranean Centre, however broad the scope of its activity, could provide an important impetus to strengthen relations across the Mediterranean. The Italian Chairmanship of the Mediterranean Contact Group in 2017 and of the OSCE as a whole in 2018 is likely to further emphasize strengthening links across the Mediterranean region. One noteworthy OSCE project, "Combating Human Trafficking along Migration Routes", launched in Vicenza, Italy, in June 2016 in co-operation with the Italian *Carabinieri* and their state-of-the art training centre, provides simulation-based training to enhance co-operation among border guards, police officers, prosecutors, labour inspectors, civil society representatives, and other relevant stakeholders from the Mediterranean region. Given the generally heightened interest in fostering closer relations, this project could portend further OSCE engagement with its Mediterranean Partners on a broad array of migration- and non-migration-related issues.

As always, the OSCE attaches great value to maximizing complementarity and co-operation with regional and international organizations and NGOs. For many years now, the OSCE has forged close partnerships with multiple UN organizations, as well as with UN-affiliated and other international and regional organizations. During IWG meetings, representatives of some of these organizations enriched the OSCE debate with their own perspectives, particularly on protection and legal topics. On these occasions, many clearly expressed support for an enhanced OSCE role on migration issues, pointing to the specific advantages of the OSCE as a regional security organization that can promote better migration management over the longer term, but can also play an important operational role.

In certain settings, such as Eastern Ukraine, the OSCE co-operates closely with the UNHCR. Due to its privileged access, the Special Monitoring Mission (SMM) can call attention to particular humanitarian needs and protection issues and facilitate the provision of relief through relevant agencies. A joint protection checklist⁸ developed by the UNHCR and the OSCE in 2014 has been successfully applied in this context and is also being used by different OSCE field operations to help OSCE staff identify the protection needs of vulnerable populations, including refugees, displaced persons, returnees, stateless individuals, and persons at risk of displacement.

8 Cf. OSCE/UNHCR, *Protection Checklist. Addressing Displacement and Protection of Displaced Populations and Affected Communities along the Conflict Cycle: a Collaborative Approach*, 2014, available at: <http://www.osce.org/cpc/111464>.

The OSCE's role needs to be seen in the broader context of global responses to the phenomenon of migration and refugee flows. As a regional arrangement under Chapter VIII of the UN Charter, and drawing on its cross-dimensional expertise, flexible toolbox, presence in the field, and strong links with the UN and other international and regional organizations, the OSCE is well placed to support the regional application of guidelines developed at the global level. At the September 2016 UN Summit for Refugees and Migrants, OSCE Secretary General Lamberto Zannier focused his intervention on the added value that regional organizations can bring to sound global migration governance.⁹ The New York Declaration for Refugees and Migrants¹⁰ adopted by UN member states on this occasion will become an important reference document for the OSCE as it seeks to define its role in support of effective multilateralism. Conversely, the OSCE can make a regional contribution to the discussions that will hopefully lead to the adoption of a global compact on refugees and a global compact for safe, orderly, and regular migration in 2018.

Looking Ahead

The view that the OSCE has a role to play in contributing to a more effective management of migration and refugee flows has won increasing support among OSCE participating States. At an informal OSCE Ministerial Council Meeting convened in Potsdam in September 2016 by OSCE Chairperson-in-Office and German Foreign Minister Frank-Walter Steinmeier to discuss the current security environment in Europe, many participants described migration as a major security challenge now and for the foreseeable future. Several ministers advocated in favour of a holistic and multi-dimensional approach that would see the OSCE combine its many tools to better integrate migration into its overall work. More significantly perhaps, no objections to the OSCE's playing a role in addressing migration were voiced.

In autumn 2016, the IWG is moving into negotiation mode, discussing elements of a possible Ministerial Council decision or declaration on migration, in effect the first of the recommendations contained in the Wild Report. Ambassador Wild, who remains in charge of the dossier on behalf of the OSCE Chairmanship, will need to employ all his diplomatic skills to achieve a concrete result in a political context that remains complicated. The Ham-

9 For the OSCE Secretary General's speech at this event, see: *Intervention of the OSCE SG Lamberto Zannier*, High Level Meeting of the Plenary of the General Assembly to address large movements of refugees and migrants, New York, 19 September 2016, available at: <http://www.osce.org/secretariat/265496>.

10 For the full text of the Declaration, see: United Nations General Assembly, *Declaration for Refugees and Migrants, Resolution adopted by the General Assembly on 19 September 2016*, A/RES/71/1, 3 October 2016, available at: <http://www.unhcr.org/events/conferences/57e39d987/new-york-declaration-refugees-migrants.html>.

burg Ministerial Council will offer an opportunity to give a political signal towards more firmly anchoring migration governance in the OSCE's work. Internally, a document of this kind would be a welcome political endorsement by the participating States of a more active role for the Organization in this area, while it would demonstrate to outside partners that the OSCE means business. Beyond reaffirming OSCE principles and commitments, it could serve to highlight the OSCE's role and possible contribution to global efforts on the governance of migration and refugee flows.

Whether OSCE participating States will agree to entrust the OSCE with specific new tasks related to migration by making use of the Organization's conflict prevention capacities, field presences, and human rights protection mechanisms remains to be seen. If the OSCE's executive structures are given additional tasks to perform, adequate financial means and enhanced staff resources will need to be found. Given the repeated cuts to the OSCE budget over the past few rounds, doing more with less is no longer a workable formula. As the OSCE Secretary General respectfully but clearly communicated during recent budget discussions, the scope for reprioritizing activities is close to zero and would leave other important areas uncovered.

Given the generally conflicted mood within the OSCE, expectations that the Hamburg Ministerial Council might broaden the scope of OSCE engagement or give specific operational guidance may well be premature. A number of political stumbling blocks, including seemingly unrelated issues, could derail ministerial agreement. Some participating States will want to emphasize basic tenets and values, including solidarity and burden-sharing, while others may be reluctant to commit themselves. The question of the OSCE's work in relation to IDPs regularly complicates OSCE debates, from discussions on the Organization's capacity to address all phases of the conflict cycle to budget negotiations involving field operations in certain conflict areas. While some want to see IDPs as an integral part of the wider challenge, and one that should warrant specific mention, others prefer to keep IDP issues strictly limited to relevant formats dealing with the protracted conflicts in the OSCE area. Incidentally, the Wild Report names IDPs as an important issue, noting, however, that it is not covered by the IWG's remit, which was exclusively concerned with the cross-border movement of people.

Even if there should be no tangible outcome in Hamburg, the OSCE Secretariat and institutions will continue to strive towards more coherence in their migration-related activities and consolidate the work already undertaken over the past two years. Under the scrutiny and with the encouragement of the appropriate subcommittees of the OSCE's Permanent Council, they are likely to focus their follow-up action on those recommendations of the Wild Report that enjoy broad support and can be accommodated within current resources. They will also likely make use of further opportunities to strengthen the impact of existing OSCE migration-related activities. Even in the absence

of consensus, the incoming Chairmanships – Austria in 2017 and Italy in 2018 – have some means to add emphasis and give direction.

How Can the OSCE Contribute to Managing the Current Migrant and Refugee Challenge?

Introduction

The international movement of people has always been a part of human reality. It is a natural phenomenon that cannot be stopped by any policy, fences, borders, or walls. Yet it is important to recognize that globalization has significantly increased migration and that refugee flows have been accelerated by the ongoing armed conflicts in the European Union's neighbourhood, including in Syria, Afghanistan, Iraq, and Libya. Thus, the flow of people fleeing violent conflict in the Middle East and North Africa was added to a pre-existing long-term flow of migrants, mainly from Africa towards Europe. For the sake of clarity, a refugee fears persecution in his or her home country (mostly due to violent conflict, war, or the political situation) and is therefore unable or unwilling to return to it. A migrant freely takes the decision to leave his or her home country, predominantly for economic reasons.¹ The current migration and refugee flows are therefore correctly described as "mixed migration movements". In its 2015 Global Trends report on forced displacement, the United Nations Refugee Agency, UNHCR, states that levels of displaced people worldwide are the highest they have been since the end of the Second World War.²

So far governments have mainly responded to the large-scale flows of migrants and refugees by taking unilateral measures aiming to contain the movement of people. The erection of fences or the closing of borders has led to the problem being passed from one country to the next, at the expense of the people concerned. What we are facing today is thus a crisis of management and a crisis of solidarity, and it will not go away any time soon. Because, as things stand, the armed conflicts and instability in the European Union's neighbourhood do not look likely to be settled any time soon. Furthermore, other problems, such as economic inequality, environmental challenges, and climate change, will persist, encouraging additional people to migrate and flee abroad.

This crisis of management and solidarity has become particularly evident among European Union (EU) member states, which are divided over the

1 For definitions consult, for example, the *1951 Convention and Protocol Relating to the Status of Refugees*, at: <http://www.unhcr.org/3b66c2aa10.html>, or the definitions provided by the International Organization for Migration, at: <https://www.iom.int/key-migration-terms>.

2 Cf. UNHCR, *Global Trends, Forced Displacement in 2015*, 20 June 2016, at: <http://www.unhcr.org/statistics/unhcrstats/576408cd7/unhcr-global-trends-2015.html>.

issue. Germany and France support mandatory quotas, while Hungary, Poland, the Czech Republic, and Slovakia vehemently oppose them. Austria has taken measures and co-ordinated with the countries along the so-called Balkan route to close borders in order to contain the flows of migrants and refugees. Hungary has erected a fence along its border to stop all migrants and refugees from entering its territory. As a result, it is countries on the EU's periphery, such as Italy or Greece, that are carrying the largest share of the burden. In March 2016, the EU struck a deal with Turkey in which Ankara promised to take back migrants and refugees who reach Greece via Turkey in return for money and the liberalization of the EU visa regime for Turkish nationals. This deal was made necessary by the failure of EU member states to agree on mandatory quotas on the basis of solidarity.

While this contribution will not provide any solutions as to how this lack of solidarity within the EU (and indeed the entire world) can be tackled, it does offer concrete suggestions as to how the Organization for Security and Co-operation in Europe (OSCE) can help to address the challenge. It builds on some of the ideas first proposed in an article published online in September 2015 by Security and Human Rights Monitor.³

This contribution begins by discussing the OSCE's current mandate in relation to managing migration and providing some examples of existing OSCE migration-related activities. This is followed by a brief description of recent attempts by OSCE participating States to define a role for the OSCE in managing migration. Finally, it provides a number of concrete suggestions on how the OSCE should define its role and which specific activities should be stepped up.

The OSCE and Migration: Mandate and Activities

The OSCE has dealt with the issue of migration since its earliest days. The 1975 Helsinki Final Act, the OSCE's founding document, covers "economic and social aspects of migrant labour" as part of what became known as the "Second Basket" (co-operation in the field of economics, science and technology, and the environment). The Helsinki Final Act considers migrant workers to "constitute an important economic, social and human factor for host countries as well as countries of origin".⁴ It also calls for the participating States to protect the personal and social welfare of migrant workers, provide

3 Cf. Stephanie Liechtenstein, Europe at a crossroads: How the OSCE can help support the current refugee crisis, in: *Security and Human Rights Monitor*, 9 September 2015, at: http://www.shrblog.org/shr_monitor/Europe_at_a_crossroads_How_the_OSCE_can_help_support_the_current_refugee_crisis.html?id=565.

4 Final Act of Helsinki. Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 141-217, here: p. 179; also available at: <http://www.osce.org/mc/39501> (p. 33).

elementary language and vocational training, ensure equality of rights of migrant and national workers, ensure that they enjoy satisfactory living conditions, provide employment, ensure that children of migrant workers have access to education, and facilitate the reunification of migrant workers with their families.⁵ These stipulations provided the basis for the OSCE's work on migration-related issues.

Many additional commitments in major OSCE documents followed in the 1980s and 1990s, and the Organization has built up a great deal of expertise in the area of migration management over the last forty years. Most notably, the 2005 Ljubljana OSCE Ministerial Council Decision No. 2/05 on *Migration*, the 2006 Brussels *Ministerial Statement on Migration*, as well as the 2009 Athens Ministerial Council Decision No. 5/09 on *Migration Management* all framed the phenomenon of migration in a positive way, acknowledging, for example, "the increasing importance of and the benefits stemming from effective migration management for the socio-economic development, social cohesion, security and stability in all countries".⁶ All three documents clearly establish a link between effective migration management and the maintenance of security. The documents focus on labour migration, and the issue of migration has thus predominantly been shaped within the economic and environmental dimension of the OSCE.

Besides the management of labour migration, the OSCE has developed numerous commitments and activities that are directly or indirectly contributing to managing migrant- and refugee-related challenges. In this context, particular attention should be paid to the OSCE's human dimension and the activities of the Office for Democratic Institutions and Human Rights (ODIHR). ODIHR bases its work in this context on OSCE commitments on migration, freedom of movement, and tolerance and non-discrimination, particularly the 2003 Maastricht Ministerial Council Decision No. 3/03 on *Tolerance and Non-Discrimination*.⁷

Numerous other OSCE departments, institutions, and field operations carry out activities that contribute to managing Europe's migration and refugee challenges. It goes beyond the scope of this article to summarize and analyse all of them. Nevertheless, it should be stressed that the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, the Transnational Threats Department (TNTD), the High Commissioner on National Minorities (HCNM), and many field operations have all carried out particularly important activities in this regard.

5 Cf. Ibid., pp. 179-181 (p. 34).

6 Decision No. 5/09, Migration Management, MC.DEC/5/09 of 2 December 2009, in: Organization for Security and Co-operation in Europe, *Seventeenth Meeting of the Ministerial Council*, Athens, 1 and 2 December 2009, pp. 24-26, here: p. 24, at: <http://www.osce.org/mc/67621>.

7 Cf. Decision No. 4/03, Tolerance and Non-discrimination, MC.DEC/4/03, in: Organization for Security and Co-operation in Europe, *Eleventh Meeting of the Ministerial Council*, Maastricht, 1 and 2 December 2003, pp. 78-80, at: <http://www.osce.org/mc/40533>.

The OSCE is thus already engaged in numerous ways, and the main question is therefore which of those activities should be further developed or expanded. What the OSCE is missing in general is a stronger focus on mixed migration flows, i.e. flows that consist of people leaving their home countries for all kinds of reasons, including war, persecution, economic challenges, and environmental factors, and a more systematic and coherent approach to the issue. This contribution will provide some suggestions as to how this can be achieved.

Recent Attempts to Define a Role for the OSCE in Managing Migration

OSCE participating States have recognized the need to develop a coherent response to the current challenge associated with increased numbers of migrants and refugees. In 2015, the Serbian OSCE Chairmanship made an attempt to adopt a consensus-based document on migration at the OSCE Ministerial Council (MC) Meeting in Belgrade. However, discussions on this draft document turned out to be more difficult than expected, became politicized, and ultimately no consensus could be found. This showed that participating States have very different views on whether and how the OSCE should step in to manage the challenge.

After the failure to adopt a consensus document at the Belgrade MC, OSCE Secretary General Lamberto Zannier wanted to keep the topic on the OSCE's agenda. He therefore convened a Security Days conference on the topic of "Refocusing Migration and Security: Bridging National and Regional Responses" in Rome on 4 March 2016. Hosted by the Italian Ministry of Foreign Affairs and International Cooperation, the conference brought together over 300 participants from governments, international organizations, civil society, and academia. At the conference it became clear that "there was broad support for an enhanced OSCE role in addressing migration."⁸ As a result of the debates, five key areas emerged that the OSCE should work on: "1) solidarity with countries of first asylum; 2) protection of people all along migration routes; 3) combating human trafficking and organized crime along the routes; 4) responsible border management; and 5) co-ordinated relocation and integration policies."⁹

As a follow-up, the German OSCE Chairmanship in 2016 launched the "Informal Working Group Focusing on the Issue of Migration and Refugee Flows", which was chaired by Ambassador Claude Wild, the Swiss Permanent Representative to the OSCE, and prepared a report that took up those five key areas and proposed recommendations. The report and the recommenda-

8 OSCE Security Days, *Refocusing Migration and Security: Bridging National and Regional Responses*, Rome, 4 March 2016, SEC.DAYS/11/16, 5 April 2016, p. 3, at: <http://www.osce.org/sg/231526>.

9 Ibid.

tions were discussed extensively at a special meeting of the OSCE Permanent Council on 20 July 2016. The outcome of this internal OSCE discussion process is still unclear at the time of writing.

Specific Steps to Enhance the OSCE's Role on Migration and Refugee Issues

Political Commitment by OSCE Participating States

In order to create a sound basis for the OSCE's work on migration and refugee-related challenges, the OSCE participating States should re-engage in serious negotiations on a consensus-based document on migration, to be adopted at the OSCE MC Meeting in Hamburg in December 2016. This is important, given the failure to adopt such a decision at the 2015 Belgrade MC. That said, the OSCE is well placed to continue its good work on migration-related issues without a consensus-based MC decision, on the basis of existing documents. As explained above, the mandate for many activities is already in place, and the expertise is also available. However, agreement in Hamburg on a new, consensus-based MC document on migration- and refugee-related challenges would be important for several other reasons.

First, OSCE participating States should clarify why the management of migration and refugee flows is an issue that should be addressed by the OSCE. This is important given that there are many other, more specialized, organizations and agencies that are already engaged in this area. For the OSCE, it would be important to establish a clear link between the successful management of migration and refugee flows and the maintenance of security and stability across the OSCE area. The OSCE is, after all, a security organization that works in the three dimensions of security: politico-military, economic and environmental, and human.

Furthermore, the Organization has a strong mandate for early warning, conflict prevention, and crisis management. Managing migration and refugee flows should be seen as one way of preventing conflicts. This is because poorly managed long-term migration and refugee flows have the potential to create instability not only in countries that receive the bulk of the people on the move, but also across the entire region. They also have the potential to threaten the human security of the people on the move, and to create tensions among diverse communities that include national minorities. They also give rise to criminality such as trafficking and smuggling. Unsuccessful management of migration and refugee flows also leads to an increase in intolerance, hate crimes, and xenophobia in destination countries. As an organization based on the concept of comprehensive security, and with a strong conflict prevention mandate, the OSCE therefore has to address the issue.

Second, adopting a consensus-based document at the MC in Hamburg is important so that the OSCE can demonstrate to the international community

at large that the Organization is taking the current challenge seriously and that it is willing to contribute to managing them. To make things clearer to other organizations and international partners, it would be advisable to outline general areas of further OSCE engagement.

Third, a consensus-based document should provide for the appointment of an OSCE co-ordinator/special representative on migrant- and refugee-related issues. This is particularly important so that other organizations know who to contact within the OSCE. Currently, this is not clear at all, as there are several departments, institutions, and field missions dealing with the issue from very different angles.

Fourth, a consensus-based Ministerial document should be used to state that the current mass movement is a mixed migration flow, i.e. that it consists of people leaving their home countries for all kinds of reasons, including war, persecution, economic challenges, and environmental factors. The OSCE's broad security mandate provides the Organization with a unique opportunity to help address the refugee and migration management crisis from various perspectives.

Finally, a consensus-based MC document can be used to outline the OSCE's contribution to fulfilling the terms of the New York Declaration for Refugees and Migrants, as adopted by the high-level plenary meeting of the United Nations General Assembly on addressing large-scale movements of refugees and migrants in New York on 19 September 2016. As a regional arrangement in the sense of Chapter VIII of the United Nations, the OSCE has to identify its contribution to this process and express its willingness to contribute to it. The Declaration recognizes "the burdens that large movements of refugees place on national resources", calls for states to "commit to a more equitable sharing of the burden and responsibility for hosting and supporting the world's refugees", and announces plans to launch "a process of intergovernmental negotiations leading to the adoption of a global compact for safe, orderly and regular migration at an intergovernmental conference to be held in 2018".¹⁰

OSCE Co-ordinator on Migration and Refugee Issues

In order to make things clearer for international partners, OSCE participating States should seriously consider the idea of appointing a co-ordinator or special representative on migration- and refugee-related challenges. Ideally, the willingness to appoint a co-ordinator should already be mentioned in the consensus document to be adopted at the Hamburg MC, as stated above. Other international organizations, such as the EU, the Council of Europe and the

10 United Nations General Assembly, *New York Declaration for Refugees and Migrants*, Resolution adopted by the General Assembly on 19 September 2016, A/RES/71/1, 3 October 2016, p. 13, at: <http://www.unhcr.org/events/conferences/57e39d987/new-york-declaration-refugees-migrants.html>.

United Nations, have created similar positions. Given that almost all OSCE departments, institutions, and field operations address the issue of migration and refugee flows in one way or another, it is almost impossible for other organizations to understand who does what and where to find the right contact person.

Yet the creation of a new post is likely to be a highly disputatious issue, given that not all 57 OSCE participating States consider migration important enough to merit an increase in the OSCE's budget. This financial problem can be overcome by opening the new post up for secondment, which would enable states that have a vested interest to pay one of their nationals to do the job.

The OSCE as a Political Platform

As mentioned at the outset of this contribution, it is important to recognize that the mass movement of people for very different reasons is bound to continue in the long-term. For various reasons, migration is a reality that governments cannot just stop with unilateral measures. On the contrary, it is a challenge that requires collective action. While the OSCE may not be able to resolve this challenge, it can serve as a useful platform for political exchange.¹¹

For example, the OSCE would be the ideal forum within which to convene an expert conference with migration experts from OSCE capitals. Given the broad geographical scope of the OSCE region, which includes Europe, the former Soviet Union, Canada, the USA, and Mongolia, such a conference could serve as a unique locus for the exchange of best practices or to discuss improving co-operation among countries of origin, transit, and destination. OSCE Asian and Mediterranean Partners for Co-operation should also take part. The participation of Jordan, a Mediterranean Partner for Co-operation, would be particularly interesting, given the large number of people that have sought refuge in that country. As a country of origin, Afghanistan, an Asian Partner for Co-operation, would also be able to make a valuable contribution.

The OSCE could also convene an expert conference to discuss the implementation of recommendations issued by the UNHCR and the IOM on how to deal with mixed migration flows. The international refugee protection system consists of the 1951 UN Refugee Convention and its 1967 Protocol Relating to the Status of Refugees. The Convention came about as a result of people being displaced in Europe during the Second World War and "as a result of events occurring before 1 January 1951". The 1967 Protocol enlarged the application of the Convention to refugees from other places, and also removed the time limit. The 1951 Convention defines who is a refugee, ex-

11 Cf. Interview with Daniel Baer, US Ambassador to the OSCE, in: *Security and Human Rights Monitor*, 16 September 2016, at: http://www.shrblog.org/shr_monitor/Interview_with_Daniel_Baer_US_Ambassador_to_the_OSCE.html?id=625.

plains the rights of refugees and outlines the legal obligations of states to protect refugees.¹² According to the UNHCR, the Convention's core principle is "non-refoulement, which asserts that a refugee should not be returned to a country where they face serious threats to their life or freedom".¹³ In addition, the rights of migrants are outlined in the 1990 International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.

There is, however, no multilateral treaty in place that covers rights of people leaving their home countries for other reasons, such as environmental disasters. The reality of mixed migration flows is thus a phenomenon that requires the attention of the international community, and the OSCE could serve as a useful political platform to discuss recommendations in this regard.

Given the large geographical scope of the OSCE area, a conference of this kind could discuss not only current refugee and migration flows towards Europe, but also issues such as migrants arriving in the United States from Latin America, or migration trends in Central Asia, Eastern Europe, the Balkans, and Russia.

Such a conference should include representatives of other relevant international organizations, such as the UNHCR, IOM, United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), or the International Committee of the Red Cross (ICRC), as well as relevant Non-Governmental Organizations (NGOs).

Creating a Pool of OSCE Experts for Roving Missions

In addition to providing a political platform, the OSCE should make use of its early warning and reporting expertise and create a pool of experts that can be dispatched on roving missions.

Roving missions could be set up to report on the situation in affected countries ("East and West of Vienna") and advise them accordingly, in close co-ordination with specialized agencies such as the UNHCR or the IOM and other actors on the ground. A cluster of experts from various OSCE departments, institutions, and field operations who have dealt with migration- and refugee-related issues before could be asked to join such missions temporarily. Deployed on the basis of a fact-finding mandate, the missions could issue reports that describe the situation and discuss the broad security implications. Such reports could serve as early-warning instruments and as the basis for developing recommendations and concrete projects in the countries concerned.

For example, several OSCE field operations are located in the countries along the Balkan route. Many of them have been involved in resolving forced

12 Cf. *Convention and Protocol Relating to the Status of Refugees*, cited above (Note 1).

13 UNHCR, *The 1951 Refugee Convention*, at: <http://www.unhcr.org/1951-refugee-convention.html>.

displacement issues since the 1990s. They could help to implement projects recommended by the roving mission experts. For this to happen, the mandates of some field operations may have to be adapted, though this may be difficult to achieve.

However, the roving missions should not be confined to countries in which the OSCE runs field operations. For example, roving missions could also be dispatched to countries such as Germany, Greece, Italy, Austria, Sweden, and Turkey. Situated at the EU's periphery, Greece and Italy are currently carrying the largest share of the burden, as most migrants and refugees first arrive on EU territory there. Their governments are thus facing the challenge of having to register, accommodate, and take care of large numbers of refugees and migrants. Sweden, Germany, and Austria are the main destination countries within the EU, and have taken in more refugees and migrants than other EU member states. And Turkey is currently the country with the largest number of refugees worldwide.

Keeping geographical balance in terms of the countries in which roving missions are deployed would be important, not only to ensure objectivity in their assessment of the security implications for the entire OSCE area, but also to maintain credibility.

Combining experts from OSCE field operations with experts from OSCE institutions and departments (including ODIHR, the HCNM, the Office of the Co-ordinator of Economic and Environmental Activities/OCEEA, the TNTD, and the Special Representative and Co-ordinator for Combating Trafficking in Human Beings) would create a pool of specialists that could address the issue of refugee and migration flows from various angles, pooling the OSCE's expertise in widely different areas to create a powerful new asset for the Organization.

For example, the OCEEA has many years of expertise in the area of labour migration management and could report and advise on this issue. ODIHR, which already works closely with a number of OSCE field operations, provides training courses to government officials on how to best integrate migrants and refugees into host societies and could thus report and advise on this issue. The HCNM is best placed to report on the implications that refugee and migration flows have for inter-ethnic and inter-cultural relations within diverse societies. The OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings is well positioned to report on trafficking along migration routes. The TNTD promotes co-operation related to border security and management by training law enforcement personnel and border officials. This is important to counter trafficking in human beings and people smuggling, irregular migration, and to prevent terrorists from crossing borders along migration routes.

The above-mentioned activities relate to both migrants and refugees and cover all three OSCE dimensions of security. Thus, the OSCE is uniquely placed to tackle the issue of mixed migration flows from various angles,

looking at human rights aspects, smuggling and trafficking, economic and labour migration, as well as security implications along international borders.

Besides creating a pool of experts on migration- and refugee-related challenges from all relevant OSCE departments and institutions, there are two specific areas in which the OSCE has longstanding experience, and which therefore seem best suited to be stepped up: improving integration and countering xenophobia and effective border management.

Improving Integration and Combating Xenophobia and Hate Crime

Effective integration of migrants and refugees into host societies is a crucial aspect of maintaining security and stability in destination countries. Indeed, if integration is managed successfully, migration can become an asset to host societies. As Daniel Baer, US Ambassador to the OSCE, noted in an interview for Security and Human Rights Monitor, “the societies that succeed in the long run will be the societies that are resilient and that manage to integrate diverse populations by harnessing their talents”.¹⁴

In this regard, ODIHR can make a significant, long-term contribution. First, ODIHR has experience with offering training on best practices for the integration of migrants into host societies in line with OSCE commitments. In 2015 and 2016, ODIHR conducted a number of training courses and workshops on this issue in countries including Moldova, Latvia, and Estonia. Similar workshops could also be offered to OSCE States that serve as destination countries to refugees and migrants arriving in Europe at the present time, such as Austria, Sweden, Germany, and Turkey.

Second, ODIHR has experience with training NGOs and government officials on how to identify, report, and act upon hate crime, intolerance, racism, xenophobia, and discrimination against migrants and refugees. ODIHR could expand its offering of training programmes and awareness-raising campaigns to affected OSCE states. In many parts of Europe, far-right and populist parties are on the rise. They make use of the refugee and migration crisis for their own ends by emphasizing supposed negative effects of this challenge. Countering this negativity is very important for European societies and is relevant for maintaining security and stability within destination countries.

During a large fact-finding meeting on hate incidents against migrants, refugees, and asylum seekers in the OSCE region, held in Warsaw on 11 December 2015, ODIHR gathered information on xenophobic rhetoric and hate crimes against migrants and refugees, such as attacks on refugee shelters, and violence against refugees and migrants along the Balkan route. Offers of training programmes for civil society and government officials in affected

14 Interview with Daniel Baer, cited above (Note 11).

countries on how to detect and counter hate crime should therefore be stepped up significantly.

Enhancing Border Security

The OSCE has longstanding experience in border management, pursuing the twin aims of ensuring borders are both open and secure. The OSCE Border Security and Management Unit (BSMU), together with several field operations and the TNTD, helps participating States to strengthen the capacity of border agencies and officials in line with the OSCE Border Security and Management Concept, which, on the one hand, calls for the promotion of “free and secure movement of persons, goods, services and investments across borders”, and, on the other, stresses the need to reduce the threat of terrorism and international organized crime “by preventing cross-border movement of persons, weapons and funds connected with terrorist and other criminal activities”.¹⁵

In addition, the OSCE offers frameworks and mechanisms for co-operation among border security officials, such as the “Policing OnLine Information System” (POLIS) and the “Border Security and Management National Focal Point Network”. They offer border security officials of the 57 OSCE participating States an opportunity to co-operate and to share best practices in border management. These networks could be used in the future for border officials to share their experiences and best practices with regard to managing the flow of migrants and refugees across borders.

The OSCE should make increased use of its experience to train border guards on both hard-security and human rights-related aspects of border management. Large flows of migrants and refugees have underlined the need to manage borders effectively to prevent criminal activity, such as people smuggling and human trafficking and the illegal entry of foreign fighters and terrorists. This would fall within the expertise of the TNTD. Training courses could be set up for border guards in affected countries, such as along the Balkan route. A training course along those lines already took place on 7 September 2016 in Germany, attended by border security and management officers and counter-terrorism experts from OSCE participating States and Partners for Co-operation. They learned how to improve their ability to identify of foreign terrorist fighters.¹⁶ The course was supported by experts from the OSCE Border Management Staff College (BMSC), which is located in

15 Border Security and Management Concept, MC.DOC/2/05 of 6 December 2005, in: Organization for Security and Co-operation in Europe, *Thirteenth Meeting of the Ministerial Council*, 5 and 6 December 2005, Ljubljana, 6 December 2005, pp. 9-15, here: p. 10, at: <http://www.osce.org/node/18780>.

16 Cf. OSCE, Border Management Staff College, *OSCE supports advanced training course in Germany on addressing cross-border challenges in identification of foreign terrorist fighters*, Garmisch-Partenkirchen, 7 September 2016, at: <http://www.oscebmssc.org/en/news-73>.

Dushanbe, Tajikistan. The BMSC is a centre of excellence and provides training for border officials from the 57 OSCE participating States, often in co-operation with specialized agencies such as the UNHCR or the IOM. In the future, participating States should make increased use of this centre of excellence.

At the same time, the large movement of people has underlined the need to protect the fundamental human rights of migrants and refugees at border crossings. Here, ODIHR could offer its expertise and provide training to police and border guards on the human rights of refugees (such as the principle of non-refoulement) and migrants arriving at international borders, in co-operation with specialized agencies such as the UNHCR or the IOM. ODIHR already has vast experience in training border officials on human rights matters.

Conclusion

This contribution has provided some concrete suggestions as to how the OSCE can contribute to managing the current large-scale flows of migrants and refugees. This is important since the mass movement of people is bound to continue in the long run and because a clear link can be established between the effective management of migration and refugee flows, and the maintenance of security and stability. Because the OSCE is a regional arrangement in the sense of Chapter VIII of the United Nations, OSCE participating States should make use of the Organization's main assets.

First, the convening power of the OSCE should be used to bring together government experts from the entire OSCE region, which spans all of Europe, the USA and Canada, the former Soviet Union, and Mongolia, together with OSCE Partners for Co-operation, international organizations, and NGOs.

Second, the Organization's operational strengths should be used to the maximum. The OSCE could create a pool of experts from all relevant OSCE departments, institutions, and field operations, which could be sent on roving missions to affected countries "East and West of Vienna". The expertise of the various OSCE departments, institutions, and field operations ensures that the issue would be addressed in a cross-dimensional way, including diverse aspects as combating people smuggling and human trafficking, preventing terrorism, and protecting the economic rights of labour migrants and the human rights of refugees. The OSCE's activities involving the integration of migrants and refugees into host societies and the improvement of border security also deserve enhancement in this context.

This holistic way of addressing mixed migration flows makes the OSCE uniquely positioned to play an important role in international efforts to cope with the challenge.

The OSCE and the Refugee Crisis

The OSCE's toolbox was well fitted out in advance to react to the European refugee crisis. Not only does it contain common commitments relating to refugees, but also the decision-making bodies and the institutions necessary for the implementation of measures, such as the Office for Democratic Institutions and Human Rights (ODIHR). This contribution will first of all examine the body of OSCE documents related to the issue of refugees, going on to sketch the efforts put in place by the Organization and its institutions.

OSCE Commitments on Migrants and Refugees

Freedom of movement and migration have been issues on the CSCE/OSCE's agenda ever since the Helsinki Final Act of 1975. If the Helsinki Process initially concentrated on the free movement of persons, the opening of Iron Curtain border regimes, and migrant labour, the participating States have acknowledged the refugee issue as a challenge for European security since the early 1990s, and consequently the need for co-operation in this area. The Declaration and Decisions adopted at the CSCE's Helsinki Summit in 1992 asserted that flight and displacement often have their origins in conflicts and the violation of CSCE principles (including in the human dimension), that mass flows of refugees and displaced persons need to be avoided by addressing their root causes, and that this issue should be an area of international and regional co-operation and solidarity. At the OSCE Summit in Istanbul in 1999, the OSCE participating States underlined the fundamental right to asylum and their commitment to ensuring the protection of refugees in the OSCE area.

In the current situation, the extensive body of OSCE human dimension commitments that relate explicitly to refugees is particularly significant: Among other things, these include "to promote dignified treatment of all individuals wanting to cross borders, in conformity with [...] in particular human rights, refugee, and humanitarian law",¹ the obligation "to combat [...] discrimination, where existing, against asylum seekers and refugees",²

Note: The views contained in this contribution are the author's own.

1 Border Security and Management Concept, MC.DOC/2/05 of 6 December 2005, in: Organization for Security and Co-operation in Europe, *Thirteenth Meeting of the Ministerial Council*, 5 and 6 December 2005, Ljubljana, 6 December 2005, pp. 9-15, here: p. 10, at: <http://www.osce.org/mc/18778>.

2 Organization for Security and Co-operation in Europe, Ministerial Council, Maastricht 2003, *Decision No. 4/03, Tolerance and Non-Discrimination*, MC.DEC/4/03, 2 December 2003, p. 3, at: <http://www.osce.org/mc/19382>.

and the protection of, among others, “stateless persons and refugees from racism, xenophobia, discrimination and violent acts of intolerance”.³ Additional OSCE commitments dealing with general migration-related issues are also relevant, as are all commitments concerning human rights and fundamental freedoms, which naturally also apply to refugees.

The escalation of the refugee crisis in Europe since the summer of 2015 has subjected these politically binding commitments to a formidable practical test: The crisis shows that the OSCE participating States still have as much difficulty in generating regional solidarity and co-operation as in achieving consensus on whether the various OSCE structures should be given a concrete and practical role in managing the crisis. Nevertheless, the OSCE not only remains a key platform for discussions among the participating States on the topic of migration and refugees, but OSCE structures were also swift to formulate recommendations on how the crisis could be overcome. This applies particularly to the Director of ODIHR, Michael Georg Link, and the OSCE Secretary General, Lamberto Zannier.

The OSCE Secretary General and the Mediterranean Partnership

In September 2015, Secretary General Zannier visited Vienna’s *Westbahnhof* railway station to assess the treatment of newly arrived refugees, and in December 2015, he called upon the OSCE participating States to do more to resolve the refugee crisis. For Zannier, the OSCE offers a platform for action-oriented discussions among OSCE participating States and the Organization’s Partner countries in neighbouring regions. He believes the Organization should seek to reinforce the international response via the creation of synergies, to promote long-term integration strategies, and to leverage its expertise on border management.⁴ Secretary General Zannier was alluding to the key role that the OSCE’s partnership with the six Mediterranean Partners for Co-operation (Egypt, Algeria, Israel, Jordan [since 1998], Morocco, and Tunisia) can play in dealing with the crisis. It is frequently forgotten that Jordan is one of the countries with the highest concentration of refugees – who currently make up almost nine per cent of that country’s total population.

3 Organization for Security and Co-operation in Europe, Ministerial Council, Madrid 2007, *Decision No. 10/07, Tolerance and Non-Discrimination: Promoting Mutual Respect and Understanding*, MC.DEC/10/07, 30 November 2007, p. 2, at: <http://www.osce.org/mc/29452>.

4 Cf. Organization for Security and Co-operation in Europe, Secretary General, *OSCE Secretary General visits Vienna’s West Station to meet refugees and representatives of Austria’s Interior Ministry, Police and humanitarian organizations*, 24 September 2015, at: <http://www.osce.org/sg/184921>; Organization for Security and Co-operation in Europe, Secretary General, *Efforts to address needs of refugees and migrants have to be stepped up, says OSCE Secretary General Zannier on International Migrants Day*, 18 December 2015, at: <http://www.osce.org/sg/211441>.

The history of the OSCE Mediterranean Partnership goes right back to the Helsinki Final Act, in which the participating States underlined their conviction that “security in Europe is to be considered in the broader context of world security and is closely linked with security in the Mediterranean area as a whole”.⁵ Topics for dialogue within the Partnership have included border security, migration management, and tolerance and non-discrimination. Germany chaired the OSCE Mediterranean Contact Group in 2015, using the opportunity to intensify dialogue on questions relating to migration and refugees. The highlight of this year was the annual OSCE Mediterranean Conference, which was held in Jordan in September. In his keynote address, Germany’s foreign Minister, Frank-Walter Steinmeier stressed that

when ethnic and religious conflicts tear entire societies apart, forcing people to flee their homes and travel across the Mediterranean and the Balkan route to Europe, then the crises of the Middle East are not simply knocking on our doors – they have long since arrived! This year, we in Germany will take in one million refugees, mainly from Syria and its neighbouring countries. Neither Germany nor Europe as a whole are in a position to take in so many people each year in the future. And the threats are incomparably closer and greater for our partner countries in the southern Mediterranean region.

This is why we are meeting here today! On the one hand, we want to lend new impetus to the well-established tradition of cooperation between the OSCE and its Mediterranean partner countries in this difficult situation. But we also want to say that we are all affected by the conflicts in the Middle East and that this is why we must not simply offer to work together to resolve them – we must insist on doing so.⁶

The OSCE has been active in this area since the adoption of the OSCE Action Plan to Combat Trafficking in Human Beings in 2003. Since September 2014, Ambassador Madina Jarbussynova from Kazakhstan has held the position of OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings. The OSCE is thus in an excellent position to meet the new challenges that the refugee crisis creates for the fight against trafficking in human beings. In February 2016, after meeting the Director of Europol, Secretary General Zannier drew direct attention to the fact that the whereabouts of 10,000 unaccompanied child refugees is unknown and they

5 Final Act of Helsinki. Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 141-217, here: p. 182; also available at: <http://www.osce.org/mc/39501>, here: p. 36.

6 Federal Foreign Office, *Speech by Federal Foreign Minister Frank-Walter Steinmeier at the OSCE Mediterranean Conference in Jordan*, 20 October 2015, at: http://www.auswaertiges-amt.de/sid_43DEAD62D9A90C5F4F610B2E73BAAF09/EN/Infoservice/Presse/Reden/2015/151020-BM-OSZE-Mittelmeerkonferenz.html.

have probably fallen into the hands of people traffickers. This shows, according to the Secretary General, how important it is to find ways to reconcile human security and the security of states.⁷

As early as July 2015, the OSCE brought together the “Alliance Against Trafficking in Persons” at a conference to discuss “People at risk: Combating human trafficking along migration routes”. The conference affirmed a victim-centred approach to combating trafficking in human beings and showcased instruments that could be used in the fight against trafficking in the context of the refugee crisis. The key role of civil society was strongly emphasized, particularly in regard to protecting the rights of women and children.

The OSCE Office for Democratic Institutions and Human Rights (ODIHR)

Warsaw-based ODIHR has been intensively involved in issues of migration and refugees for all 25 years of its existence. This not only encompasses work directly focusing on issues such as migrant rights or advising states on topics including the introduction of resident registration systems, but also fields more tangentially related to refugees and internally displaced persons, such as elections, human rights, democratization, and the integration of Sinti and Roma. Since the Maastricht Ministerial Council in 2003, ODIHR has had a mandate from the participating States to play a role in preventing discrimination against refugees and asylum seekers, something that is particularly relevant in the current crisis – as Germany’s Foreign Minister Steinmeier stressed in the speech he gave on assuming the position of OCSE Chairperson-in-Office for 2016:

Frank discussions on how we want to tackle the challenges facing us all is part of a new culture of dialogue in the OSCE. [...]

I’m also thinking of *migration*.

Especially here, we should make use of this organisation’s potential. Its geographical span and comprehensive approach make it a suitable vehicle. It’s a good forum for discussion and exchange. And it’s the right place to look at the social impact of migration and immigration – with a special *focus on tolerance and non-discrimination*.⁸

ODIHR is also a member of the Consultative Forum on Fundamental Rights of the European Border and Coast Guard Agency Frontex and advises this EU agency on all human rights-related matters. This relationship forms a

7 Cf. Organization for Security and Co-operation in Europe, Secretary General, *OSCE Secretary General and Europol Director discuss need to address threat of trafficking children migrants*, Vienna, 4 February 2016, at: <http://www.osce.org/sg/220566>.

8 Dr Frank-Walter Steinmeier, Chairperson-in-Office, *Renewing dialogue, rebuilding trust, restoring security. Speech to the OSCE Permanent Council*, Vienna, 14 January 2016, at: <http://www.osce.org/pc/216716> [emphasis in original].

solid basis for further strengthening co-operation between the EU and the OSCE in the field of border management that will respect human rights and fundamental freedoms. The two institutions' mandates complement each other well: While Frontex is restricted to operating in the EU, ODIHR can also operate in the Western Balkans and Turkey.

In public statements in June⁹ and September¹⁰ 2015, ODIHR Director Link reminded the OSCE States of their shared commitment to a co-ordinated and sustainable response to the crisis based on solidarity and respect for human rights. Link stressed that human rights are not the sole preserve of the citizens of the participating States, but apply universally, including to migrants, asylum seekers, and refugees. He also referred to the governments' specific political responsibility in this area, arguing that they should focus their efforts on providing dignified treatment and protection to all who need them rather than on strengthening barriers at borders. In December 2015, ODIHR, the UN Refugee Agency (UNHCR), and the Council of Europe (CoE) made a joint appeal to the Hungarian government, urging it to treat refugees humanely. The appeal was a reaction to a new public campaign by the Hungarian government that describes refugees and migrants as "criminals", "invaders", and "terrorists".¹¹

The recommendations of a major meeting of experts organized by ODIHR in Warsaw in November 2015 with 55 attendees from numerous OSCE States affected by the refugee crisis, as well as representatives of international organizations and OSCE structures, made an important contribution to improving understanding of the refugee crisis and identifying ways to resolve it. Among other things, they stressed that particularly vulnerable groups among the refugees, including women, children, old people, unaccompanied minors, and people with disabilities, require special considerations from organizations such as the OSCE.¹²

9 Cf. Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights, *OSCE human rights chief calls for humane treatment of refugees*, Budapest, 19 June 2015, at: <http://www.osce.org/odihr/165141>.

10 Cf. Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights, *OSCE human rights chief calls for human rights-based co-operative response to Europe's migration crisis*, Warsaw, 1 September 2015, at: <http://www.osce.org/odihr/179406>.

11 Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights, *Hungary urged to refrain from policies and practices that promote intolerance and hatred*, Geneva/Brussels/Warsaw, 21 December 2015, at: <http://www.osce.org/odihr/211951>.

12 Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights, *OSCE/ODIHR's expert panel meeting discusses safeguarding rights of asylum seekers, refugees and other persons in need during the migration crisis*, 13 November 2015, at: <http://www.osce.org/odihr/199736>. The meeting's findings have been published as: OSCE/ODIHR, *Expert Panel Meeting. Migration Crisis in the OSCE Region: Safeguarding Rights of Asylum Seekers, Refugees and Other Persons in Need of Protection*, 12-13 November 2015, Warsaw, Poland, available at: <http://www.osce.org/odihr/217616>.

A further event held by ODIHR in December 2015 focused on intolerance towards and hate crimes committed against migrants, refugees, and asylum seekers.¹³ Representatives of civil society from seven OSCE participating States discussed the influence of migration and the refugee crisis on the relationship between local societies and migrants. The event stressed once more the key role that civil society can play in dealing with the current crisis and the need to ensure it is strengthened.

Even following the partial closure of the so-called Western Balkan route, ODIHR remained ready to conduct a fact-finding mission into the conditions facing migrants and refugees in the OSCE area, which could have focused on the situation on the ground in Turkey or Greece, providing specific advice to help resolve the crisis. Issues it could have covered include registration and application processes, humanitarian conditions, inhumane treatment, the deprivation of fundamental freedoms, non-discrimination and protection from hate crime, additional protection for particularly endangered groups, access to services and support, and the right to a fair trial. In a joint statement, Secretary General Zannier and Director Link underscored this willingness. According to Link:

The protection of external borders and regulations on the entry of foreigners are sovereign prerogatives of each OSCE participating State, which is in turn expected to respect international legal prohibition to return or expel refugees to places where their lives or freedoms could be threatened; international standards on the use of lethal force; and the commitment to promote the dignified treatment of all individuals wanting to cross borders. [...] ODIHR remains ready to assist all OSCE participating States affected by this migration and refugee crisis to ensure the promotion and protection of human rights in their responses, and to find sustainable solutions.¹⁴

The OSCE Parliamentary Assembly

The OSCE Parliamentary Assembly (PA) has also dealt intensively with the crisis, strongly supporting the OSCE's efforts. In a report of the PA General Committee on Democracy, Human Rights and Humanitarian Questions, sub-

13 Cf. Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights, *Intolerance faced by migrants, refugees at the centre of OSCE/ODIHR fact-finding workshop in Warsaw*, 11 December 2015, at: <http://www.osce.org/odihr/209156>.

14 Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights, OSCE Secretariat, Secretary General, *States must protect human rights of refugees and work for sustainable solutions, say OSCE Secretary General Zannier and ODIHR Director Link*, Warsaw/Vienna, 20 June 2016, at: <http://www.osce.org/odihr/247696>.

mitted in February 2016 to the Winter Meeting of the PA in Vienna,¹⁵ and entitled “Migration Crisis in the OSCE Area: Towards Greater OSCE Engagement”,¹⁶ MPs Isabel Santos, Ivana Dobesova, and Gordana Comic submitted numerous proposals for improving the OSCE’s response to the refugee crisis. The report is one of many activities carried out by OSCE parliamentarians, who had already addressed the refugee crisis at their meetings in Vienna, Helsinki, and Ulaanbaatar during 2015. OSCE parliamentarians also visited crisis hotspots in Turkey, Italy, and along the Western Balkan route.

The PA’s report calls for the OSCE to raise its engagement in seven ways: The first is by increasing coherence within the Organization, a task that the German OSCE Chairmanship already identified as requiring urgent attention in 2016. The report emphasizes ODIHR’s key role in monitoring human rights aspects of migration management, encouraging states to support such efforts, and in the area of legislative review assistance, which ODIHR carries out in part together with the Venice Commission of the CoE. This can help OSCE participating States to ensure that their legislation is in line with the 1951 Refugee Convention and other relevant international standards. Second, the report calls for enhanced involvement from the OSCE field operations, who make up a dense network of local presences, particularly in the Balkans, and are already involved in carrying out projects tailored to regional needs. The report’s third proposal is for a thematic field mission on migration, to be based in an EU state; the fourth, for enhanced involvement of the OSCE’s Mediterranean Partners for Co-operation. The report also calls for an intensive debate within the PA and the exchange of local best practices among parliamentarians for the integration of migrants and refugees. Finally, it urges enhanced co-operation between the OSCE and international partner organizations such as the UNHCR, the International Committee of the Red Cross (ICRC), the International Organization for Migration (IOM), the CoE, and the EU, e.g. by establishing local task forces with representatives of the various organizations.

The Annual (summer) Session of the OSCE Parliamentary Assembly in Tbilisi in July 2016 also dealt intensively with migration and refugees: Resolutions were passed on the rights of refugees and security challenges related to migration.

15 Cf. Organization for Security and Co-operation in Europe, Parliamentary Assembly, *Crisis of migrants and refugees tops agenda for 2016 OSCE PA Winter Meeting*, Copenhagen, 17 February 2016, at: <http://www.osce.org/pa/222676>.

16 Cf. Isabel Santos/Ivana Dobesova/Gordana Comic, *Migration Crisis in the OSCE Area: Towards Greater OSCE Engagement*, Thematic Report Prepared by the Bureau of the OSCE PA General Committee on Democracy, Human Rights and Humanitarian Questions, February 2016, at: <https://www.oscepa.org/documents/all-documents/winter-meetings/2016-vienna-1/reports-1/3159-migration-crisis-in-the-osce-area-3rd-committee-thematic-report-feb-2016/file>.

The most recent iteration of the OSCE Security Days, a series of conferences initiated by General Secretary Zannier, took place in Rome on 3 and 4 March 2016. They were dedicated to migration and its many complex implications for security,¹⁷ and gave new impetus to discussions on the role of the OSCE in managing the refugee crisis. On the urging of the German Chairmanship, the OSCE's decision-making bodies in Vienna established an informal working group, chaired by the Permanent Representative of Switzerland to the OSCE, Ambassador Claude Wild, tasked with holding seven sessions between 16 March and 27 June 2016 to draw up proposals for concrete OSCE actions in preparation for a special meeting of the Permanent Council ("OSCE Informal Working Group Focusing on the Issue of Migration and Refugee Flows"). The OSCE participating States, the OSCE Secretariat, and the OSCE institutions, particularly ODIHR, were actively involved in the discussions and planning of this; in mid-June, the Secretary General delivered a comprehensive report on the activities of all OSCE executive structures, i.e. the Secretariat, the field operations, and the autonomous institutions, much of which had been prepared by ODIHR.

The results of the Informal Working Group were presented at a special meeting of the Permanent Council on 20 July. Ambassador Wild emphasized that the OSCE is uniquely positioned and equipped to use its political convening power and technical expertise to create formal and informal networks and underlined that "in such networks national experts and decision makers can exchange best practices in all specific issues that have to be addressed to design and implement responsible national policies on migration and refugee flows".¹⁸

Ambassador Wild's final report, which was made available to the German Chairmanship in late July 2016,¹⁹ contains 50 recommendations to the OSCE participating States and executive structures in the areas of "Protection", "Combating Crime", "Border Management", "Successful Integration", and "Solidarity and Partnerships". Notably, the report ascribes a prominent role to the OSCE institutions, including ODIHR, in each area. In the area of Protection, for instance, the report recommends that the participating States

17 Cf. Organization for Security and Co-operation in Europe, *Security Days: Refocusing Migration and Security – Bridging National and Regional Responses*, Rome, 4 March 2016, at: <http://www.osce.org/secdays/2016/migration-and-security>.

18 Cited in: Organization for Security and Co-operation in Europe, *OSCE States explore role for the Organization regarding migration and refugee flows*, Vienna, 20th July 2016, at: <http://www.osce.org/cio/255451>.

19 *Towards a comprehensive governance of migration and refugee flows in the OSCE area, Report by the Chairperson of the OSCE Informal Working Group Focusing on the Issue of Migration and Refugee Flows, Ambassador Claude Wild, Switzerland, to the Chairperson of the OSCE Permanent Council, Ambassador Eberhard Pohl, Germany, 27 July 2016.*

[...] consider inviting human rights assessment deployments by ODIHR. The missions would result in confidential reports to the host country including recommendations. They would identify areas of possible engagement by relevant OSCE structures [...] Consider inviting ODIHR to analyse human rights compliance of legislation drafted or adopted in the context of mass movements of people. Consider inviting ODIHR to build capacities of national human rights institutions on how to assess the situation and use their mandate effectively as well as of civil society and volunteer groups on human rights documentation and analysis.²⁰

Under the heading “Successful Integration”, the report recommends that the participating States “[...] consider making more extensive use of assistance offered by ODIHR to facilitate the integration of migrants by focusing on raising awareness, promoting the exchange of good practices and capacity building of competent national authorities in relation to migrant integration in the OSCE area.”²¹

The Declaration of the Hamburg Ministerial Council

The “Wild Report” represents an important milestone in the efforts of the German OSCE Chairmanship to identify areas where the OSCE can take action in response to the European refugee crisis and to persuade participating States and OSCE structures to support such action. It was also used as the basis for further planning with a view to the Hamburg Ministerial Council. Migration was one of the subjects discussed at a high level at the informal meeting of OSCE foreign ministers hosted by Germany’s Foreign Minister Frank-Walter Steinmeier in Potsdam on 1 September 2016. The tireless efforts of the German OSCE Chairperson-in-Office ultimately proved successful: In Hamburg, after long negotiations, the participating States reached an agreement on a decision on the “OSCE’s Role in the Governance of Large Movements of Migrants and Refugees”, which “encourages the OSCE executive structures, within existing mandates and available resources, to continue their work on the issue of migration, including by reinforcing activities leading to the exchange of best practices and enhancing dialogue and co-operation with Partners for Co-operation, in a manner that complements the activities undertaken by other relevant international organizations and agencies”.²² Thus, by agreeing to use the OSCE platform,

20 Ibid., Recommendations Nos 10, 11, and 12.

21 Ibid., Recommendation No. 36.

22 Organization for Security and Co-operation in Europe, Ministerial Council, Hamburg 2016, *Decision No. 3/16, OSCE’s Role in the Governance of Large Movements of Migrants and Refugees*, MC.DEC/3/16, 9 December 2016, p. 1, at: <http://www.osce.org/cio/300326>.

the participating States sent a clear political signal to ODIHR, the other institutions, and the OSCE Secretariat, recognizing their work in this field and encouraging them to keep the issues of refugees and migration on their agendas.

The Response of OSCE Field Operations in South-Eastern Europe to the Migration and Refugee Crisis

Introduction

The migration crisis that affected Europe from the opening of the “Balkan route” in late summer 2015 to its supposed closure in winter 2016 has impacted the work of the field operations deployed by the Organization for Security and Co-operation in Europe (OSCE) in South-eastern Europe in different ways. This contribution provides an overview of the activities being pursued by the OSCE field operations in Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia in response to the migration crisis. It sheds light on the growing involvement of the OSCE Secretariat in this area, and, building on field research, scrutinizes the implications the migration crisis has had for OSCE field operations in terms of monitoring; reporting and liaison activities; promoting a human rights-based approach to the crisis; raising awareness at the community level; building local-governance and civil-society capacity; building policing capacity and addressing migration-related crime; and supporting research activities. The research presented here is intended to contribute to further analysis on how far current developments have the potential to change the work of the OSCE and its field operations in South-eastern Europe.

The OSCE Area and Migration

The developments facing the area of the OSCE are at once the result of a global crisis and of the regional movements of people seeking international protection (or migrating for a broad variety of reasons). They represent only a fraction of the overall number of migrants throughout the world. In 2015, the United Nations (UN) announced that worldwide displacement is at the highest level ever recorded – one in every 122 human beings is now a refugee or otherwise displaced. According to the UNHCR, 30 per cent of refugees worldwide are hosted by Turkey, Pakistan, and Lebanon. Jordan, an OSCE Partner for Co-operation, is among the countries with the highest number of refugees per capita worldwide, who make up 8.96 per cent of its population.

Note: The views contained in this contribution are the authors' own and do not reflect those of their respective organizations. This contribution was previously published in a slightly different form as: Florent Marciacq/Tobias Flessenkemper/Ivana Boštjančič Pulko, The OSCE's Response to the Migration and Refugee Crisis, In: *Südosteuropa Mitteilungen* 05-06/2016, pp. 132-146.

Of the 20.2 million refugees worldwide, 86 per cent, reside in developing countries. Thus, South-South migration, and especially refugee movement, is significantly larger than the South-North flow that affects the OSCE area. By comparison, as of February 2016, OSCE participating States hosted 3.5 million refugees. This is equivalent to only 0.3 per cent of the total population of the participating States. This number includes the 1.13 million refugees that have arrived in European Union countries since the start of 2015.

Lying between a zone of war and instability in the Middle East and Central and Western Europe, South-eastern Europe is an area of connection and transit. It also marks the boundary of both the OSCE region and the European Union. The dramatic events around the migrant and refugee crisis between spring 2015 and March 2016, particularly the *opening* and *closing* of the “Balkan route” between late summer 2015 and winter 2016, have created obvious challenges for the region and captured public attention. The impact of these events has been particularly strong on Greece, an EU member state, as well as on Macedonia and Serbia, though all the countries of the Western Balkans have also been indirectly affected. The OSCE has field operations in every state in this region. These missions have a variety of concerns as to how the developments may impact on their ability to deliver on their mandates. Thanks to a project initiated by the Southeast Europe Association (Südosteuropa-Gesellschaft, SOG), the authors of this contribution were able to carry out research related to these OSCE field operations and gain a first-hand impression of challenges, activities, and prospects. The research took the strategic considerations of the OSCE’s policy-making bodies as a starting point. This contribution will provide an overview of the activities and results of the field research carried out between May and September 2016.

The OSCE’s Response to the Migration and Refugee Crisis

In the past few years, the OSCE Parliamentary Assembly (PA) has been particularly active in addressing the refugee and migration crisis that has affected Europe and the broader OSCE area. Already in 2013, it issued a special report on the humanitarian crisis in Syria.¹ The report provided an overview of the impact of Syrian refugees in key participating States, including Albania, Bosnia and Herzegovina, Macedonia, Montenegro, and Serbia.

In 2014, the PA passed a resolution on the situation in the Middle East and its effect on the OSCE area,² in which it expressed its concern about the

1 Cf. International Secretariat of the OSCE Parliamentary Assembly, *Humanitarian Crisis in Syria: A Special Report on the Impact of Syrian Refugees in the OSCE Region*, 12 February 2013, available at: <https://www.oscepa.org/documents/all-documents/documents-1/other-reports/humanitarian-crisis-in-syria/1528-2013-report-on-the-humanitarian-crisis-in-syria/file>.

2 Cf. OSCE Parliamentary Assembly, *Resolution on the Situation in the Middle East and Its Effect on the OSCE Area*, 2013 Istanbul Final Declaration, available at: <https://www.oscepa.org/documents/all-documents/documents-1/other-reports/humanitarian-crisis-in-syria/1528-2013-report-on-the-humanitarian-crisis-in-syria/file>.

ongoing humanitarian crisis, the massive movement of refugees, and the latter's potentially destabilizing impact on the OSCE area. The resolution urged OSCE participating States to comply with their commitments in humanitarian matters, to offer the greatest possible assistance to Syrian refugees, and to support the governments of Turkey and Jordan, which find themselves facing the brunt of the crisis.

Likewise, in its resolution on the situation of refugees in the OSCE area,³ the PA called upon OSCE participating States to work on a "more equitable sharing of the flow of refugees", to take action against human trafficking, and to strengthen the protection of migrants' human rights.

In 2015, the PA also passed a resolution calling for urgent action to address the tragedy of migrants dying while attempting to cross the Mediterranean.⁴ This called for concerted, consistent, and determined action to be taken by the UN to combat human trafficking activities in the Mediterranean, and encouraged Italy to make efforts for an EU humanitarian admittance plan in order to set up application desks in transit countries in the Southern Mediterranean that may receive asylum applications according to set quotas and resettlement procedures, and ensure that migrants' safe passage without risking their lives.

The PA again addressed the migration crisis at its Winter Meeting in February 2015, its Helsinki Annual Session in July 2015, and its Ulaanbaatar Autumn Meeting in September 2015. Although migration-related issues are traditionally considered to lie within the economic and environmental dimension, it is the third committee of the PA (the General Committee on Democracy, Human Rights and Humanitarian Questions) that has increasingly taken up this issue. The third committee Chair, Vice-Chair, and Rapporteur have undertaken several visits in the past two years to support the committee's work and approach to the crisis, acquire first hand information on the issue, raise its visibility, and advocate for a more co-ordinated effort to resolving the crisis.⁵

On World Refugee Day, 20 June 2015, OSCE parliamentarians called again on OSCE participating States to share responsibility in the ongoing cri-

oscepa.org/meetings/annual-sessions/2013-istanbul-annual-session/2013-istanbul-final-declaration/1655-18.

3 Cf. OSCE Parliamentary Assembly, *Resolution on the Situation of Refugees in the OSCE Area*, 2014 Baku Final Declaration, available at: <https://www.oscepa.org/meetings/annual-sessions/2014-baku-annual-session/2014-baku-final-declaration/1859-15>.

4 Cf. OSCE Parliamentary Assembly, *Resolution on Calling for Urgent Solutions to the Tragedy of Deaths in the Mediterranean*, 2015 Helsinki Final Declaration, available at: <https://www.oscepa.org/meetings/annual-sessions/2015-annual-session-helsinki/2015-helsinki-final-declaration/2292-17>.

5 Cf. OSCE Parliamentary Assembly, *Migration Crisis in the OSCE Area: Towards Greater OSCE Engagement. Thematic report prepared by the Bureau of the OSCE PA General Committee on Democracy, Human Rights and Humanitarian Questions*, February 2016, available at: <https://www.oscepa.org/documents/all-documents/winter-meetings/2016-vienna-1/reports-1/3159-migration-crisis-in-the-osce-area-3rd-committee-thematic-report-feb-2016/file>.

sis and to foster the integration of refugees and migrants into European societies. The third committee's Chair, Isabel Santos, visited Lampedusa alongside a delegation of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Madina Jarbussynova.⁶

In November 2015, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) organized an expert panel meeting in Warsaw to inform and support planning of the Office's future activities relating to freedom of movement for migrants and the protection of their human rights. The conclusions and recommendations of the resulting report⁷ called on participating States to abide by their international and OSCE commitments and stand up for the rights of migrants and asylum-seekers. Proposed measures for this include enhancing access to information on social media, prioritizing the protection of vulnerable groups, and applying a gender-sensitive approach. The panel experts also recommended a series of technical improvements specifically relating to the corridor that conveys refugees and migrants from the southern part of the OSCE region to the north, starting with data-sharing among border administrations to facilitate entry and security clearance procedures – a field in which the OSCE and ODIHR could provide technical assistance.⁸

However, in December 2015, the foreign ministers of the OSCE participating States failed to reach an agreement on a draft decision that would have updated a previous Ministerial Council Decision, Decision No. 5/09 on migration management of 2 December 2009.

Under the co-ordinated Swiss and Serbian OSCE Chairmanships, the Special Representative for the Western Balkans, Ambassador Gérard Stoudmann, encouraged all field missions in South-eastern Europe to continue strengthening their co-operation, as they all faced new challenges emerging from the flow of refugees. His additional proposal that field missions develop areas of regional co-operation failed to find sufficient support.⁹

Following a decision taken by the OSCE PA's Standing Committee on 25 February 2016 in Vienna, the OSCE Parliamentary Assembly's Ad Hoc Committee on Migration was created, with Swiss parliamentarian Filippo Lombardi serving as its Chair.¹⁰ A focal point in the Assembly's work in the

6 Cf. OSCE, *OSCE PA humanitarian Chair marks World Refugee Day in Lampedusa*, press release, Lampedusa, 22 June 2015, at: <http://www.osce.org/pa/165491>.

7 Cf. OSCE ODIHR, *Expert Panel Meeting, Migration Crisis in the OSCE Region: Safeguarding Rights of Asylum Seekers, Refugees and Other Persons in Need of Protection, 12-13 November 2015, Warsaw, Poland, Summary report*, 21 January 2016, available at: <http://www.osce.org/odihr/217616>.

8 Cf. *ibid.*

9 Cf. OSCE, *Strengthening regional co-operation in Western Balkans one of key 2015 priorities, says OSCE Chairperson Dačić on visit to Mission to Serbia*, press release, Belgrade, 29 January 2015, at: <http://www.osce.org/cio/137716>, and authors' interview at the OSCE Mission to Serbia.

10 Cf. OSCE Parliamentary Assembly, *Ad Hoc Committee on Migration*, at: <https://www.oscepa.org/about-osce-pa/parliamentary-committees-groups/other-committees-groups/226-ad-hoc-committee-on-migration>.

field of migration in all three OSCE dimensions, the Ad Hoc Committee also has the task of recommending policy that will enhance the role of the OSCE in the field of migration and improve the protection of refugees and migrants. Following its establishment, the Ad Hoc Committee made its first field visit to Calais, France, on 11 May 2016. It also travelled to Sicily in September 2016 and plans further visits to Turkey and Greece in the months to come. These fact-finding missions are instrumental for the elaboration of policy reports and recommendations; they direct a spotlight on the consequences of migration mismanagement and highlight the OSCE's ability to address the multifaceted challenges posed by mixed migration.¹¹

Following its Winter Meeting in February 2016, the third committee of the OSCE PA issued a new report on the role of the OSCE in the migration crisis.¹² The report starts by arguing that the ongoing migration crisis could in fact serve to mitigate the effects of Europe's ageing and shrinking population. It claims, furthermore, that failure to integrate refugees from Syria in the labour market would be a waste of their brainpower. The report then delves into the role that the OSCE could play in tackling the migration crisis. Specifically, it recommends that the Organization work to enhance the coherence of its various approaches in that field; make more effective use of its second-dimension platforms so as to share lessons learned and develop best practices for the integration of migrants and refugees in the labour market; rely more on the input and experience of OSCE field operations; establish a thematic field mission on migration with a region-wide portfolio to enhance regional co-operation in that area; and enhance co-operation with OSCE Partners for Co-operation and partner organizations.¹³

On 10 May 2016, the OSCE and the Hellenic Foundation for European and Foreign Policy held an event in Athens on the topic of the migration and refugee crisis and its impact on European security.¹⁴ This conference discussed the security implications of mass movements of people at the regional and sub-regional levels, the role of international organizations, and co-operation and co-ordination among relevant actors. The participants stressed that the phenomenon of migration will most likely be an issue for decades to come and called for the pursuit of long-term solutions.

In July 2016, the PA's General Committee on Economic Affairs, Science, Technology and Environment also issued a report touching on the mi-

11 Cf. OSCE, *In visit to Sicily, members of OSCE PA migration committee reiterate calls for greater responsibility-sharing*, press release, Pozzallo, 9 September 2016, at: <http://www.osce.org/pa/263371>.

12 Cf. OSCE Parliamentary Assembly, *Migration Crisis in the OSCE Area*, cited above (Note 5).

13 The report also makes recommendations to specific OSCE participating States and EU member states.

14 Cf. OSCE, *Implications of migration and refugee crisis for the European security discussed at OSCE-ELIAMEP event in Athens*, 12 May 2016, at: <http://www.osce.org/sg/239911>.

gration crisis.¹⁵ The committee criticized the growth of demagoguery in political discourse in many European countries and called instead for an “open discussion about migration, based on the economic evidence that in a globalized world [...] facilitating the movement of skills and talents allows unlocking the economic potential of labour mobility”.¹⁶ Furthermore, according to the report, labour mobility is “part of the solution to address the talent shortages and encourage innovation”.¹⁷ In its substance, the report underlines the need to adopt a more comprehensive approach towards migration and look for policy solutions that strengthen the objectives of the OSCE in all of its three baskets simultaneously.

The OSCE’s Informal Working Group Focusing on the Issue of Migration and Refugee Flows has also made a valuable contribution. The Working Group was tasked by the 2016 German OSCE Chairmanship with analysing existing OSCE tools for addressing migration challenges, identifying viable entry points for the OSCE and providing recommendations on the way forwards. The work of the Informal Working Group was informed by a report issued by the PA in February 2016. The Informal Working Group’s findings and recommendations were presented at a special meeting of the Permanent Council on 20 July 2016.¹⁸ They included the need to appoint a Special Representative on Migration to co-ordinate the OSCE’s work on migration and refugees – someone who can work in collaboration with other special representatives, use the Organization’s convening power to bring together participating States and partners (both internally and externally), and synchronize efforts in all three dimensions of security.

The Response of OSCE Field Missions to the Migration Crisis in South-Eastern Europe

The migration crisis has been and remains a source of concern for all OSCE field missions in South-eastern Europe. The massive influx of migrants has been identified as a potentially destabilizing phenomenon that could jeopardize regional security and hinder post-conflict transition. The crisis, however, has not affected all countries in the region in the same manner. Serbia and Macedonia were certainly on the frontline, as were the field missions in Belgrade and Skopje, which viewed the migration crisis as creating a new set

15 Cf. OSCE PA, *Report for the General Committee on Economic Affairs, Science, Technology and Environment. 25 Years of Parliamentary Co-operation: Building Trust through Dialogue*, Rapporteur Ms. Marietta Tidei, Tbilisi, 1-5 July 2016, at: <https://www.oscepa.org/documents/all-documents/annual-sessions/2016-tbilisi/repts-and-draft-resolutions/3229-2nd-committee-report-eng/file>.

16 Ibid. p. 2.

17 Ibid.

18 Cf. OSCE, *Assembly’s work on migration presented to OSCE Ambassadors by Ad Hoc Committee Chair Lombardi at a special Permanent Council*, press release, Vienna, 20 July 2016, at: <http://www.osce.org/pa/255471>.

of cross-dimensional challenges requiring urgent action. In other words, these missions could not deal with the migration crisis as part of their ordinary working routines, but would have to create new initiatives to address it. Kosovo, Albania, Montenegro, and Bosnia and Herzegovina, by contrast, were barely affected by the crisis, largely for topographical reasons. In interviews with staff posted in those countries, the sentiment they expressed was first and foremost one of relief: The missions would not have to prioritize the issue; although they would have to make some preliminary assessments (as part of their routine work), they believed that no further preparation was needed unless the crisis were to hit their host country. In a word, they followed a “business-as-usual” approach. It is worth noting that those missions expressed little concern for the challenges faced by Serbia and Macedonia and their OSCE field missions. Although OSCE field missions in the region readily defined the crisis as regional and transnational, in practice, their response was obviously shaped by more traditional, country-centric views – which is in line with their mandate. That may explain the lack of regional engagement to address the migration crisis on the part of OSCE field missions, and, of course, also why the level of engagement of field missions in the region varied so much across the region.

Monitoring Activities

The migration crisis triggered an increase of cross-border monitoring activities by most OSCE field missions. With the visa liberalization process approaching completion for most Western Balkan countries, the EU started to reduce its support in the area of integrated border management (IBM), which had been a primary area of EU activity up to 2010.¹⁹ Borders were deemed “functional”. The migration crisis, however, showed that this ability to function in normal times did not rule out failure in times of crisis. OSCE monitoring activities in Serbia, for instance, indicated that border checkpoints at the heart of the crisis were understaffed, suffered from high levels of corruption, and lacked the appropriate equipment to respond.²⁰ Such information, acquired through the physical presence of OSCE officers in the field and their regular encounters with local actors, was key in allowing the missions to gain a sense of what was likely to happen. The missions in Belgrade and Skopje decisively relied on information provided by the officers in their efforts to provide a “flexible, demand-driven response”, including at short notice.

While the Belgrade-based OSCE Mission to Serbia could rely on its presence in south Serbia (it has an office in Bujanovac) to monitor that country’s southern border with greater intensity, the OSCE Mission to Skopje or-

19 Cf. Tobias Flessenkemper/Tobias Bütow, Building and removing visa walls: On European integration of the Western Balkans, in: *S+F Sicherheit und Frieden/Security and Peace* 3/2011, pp. 162-168.

20 Authors’ interview at the OSCE Mission to Serbia.

ganized its activities from the capital. At the beginning of the crisis, one team from the mission's police development unit (PDU) and one team from the mission's monitoring unit (MU) visited the border areas once a week. Following the gradual tightening of Macedonia's border regulations between November 2015 and February 2016, one PDU team was deployed to the southern border at Gevgelija three to four times a week, and this presence was further strengthened with two PDU teams deployed on a regular basis in Gevgelija from March 2016. The PDU teams occasionally stayed in the field overnight. In the meantime, similar visits were made to the northern border. The intensity of these monitoring activities only declined from May 2016, with the mission reducing its number of visits to Gevgelija, for instance, to one or two per week.²¹ In the near future, monitoring activities will be facilitated by the office recently opened in Gevgelija, which consists of a container installed in the camp.

In Bosnia and Herzegovina, the mission monitored the migration crisis less intensively and, above all, at greater distance. It sought to assess how a possible change in the main route used by migrants could affect the country, but this assessment was primarily based on second-hand information provided by the authorities or through information acquired as part of routine work. More specifically, in Brčko, a newly deployed OSCE human rights officer (a position created in the summer 2015) researched the possible impact of the migration crisis in her area of responsibility. Meetings with local authorities led her to the conclusion that these were unprepared. In the rest of the country, the mission was ready to make use of the Temporary Presences Mechanism, which had been created in 2014 to allow the swift and lasting deployment of OSCE officers in the field (stationed in offices rented at short notice for the purpose).

In Kosovo and Albania, the field missions similarly sought to assess the level of preparedness of local authorities following a potential shift in the migration route. In Kosovo, the mission noted that the authorities had conceived a kind of emergency plan, but it did not reinforce its monitoring capacity in this area. In Albania, the presence became more attentive to cross-border movements, but it did not deploy teams of monitors on the ground working specifically on migration (as this would have placed too much strain on limited resources). And while the OSCE mission in Pristina did have officers monitoring the work of municipalities on migration matters, they were not deployed in response to the migration crisis, but only monitored the reintegration of Kosovo migrants who had been (in)voluntarily repatriated after their exodus in 2014/2015.

21 Cf. OSCE Mission to Skopje, *Update on Activities in the Area of Migrant/ Refugee Crisis*, 10 June 2016, SEC.FR/444/16/Rev.1.

The migration crisis led to an expansion of OSCE field missions' reporting and liaising activities. In addition to the usual reporting tasks, in spring 2016, the Mission to Serbia published a background report on the migration crisis.²² A rare occurrence in the reporting work of OSCE field missions, this kind of report covers a broad set of issues, reviews key developments and scrutinizes the role of the mission in relation to them. In the background report of March 2016, the mission presented an overview of the migration-related situation in Serbia, its challenges and ramifications and reviewed the activities it had so far undertaken "to assist the host country in integrating a human rights approach into its management system" in the field of migration.²³ In specific terms, the report took stock of recent developments in the number of migrants and refugees, identified the responses of the host country (e.g., the creation of a migration working group in Serbia), identified regional and bilateral implications (e.g., the likelihood that regional tensions could be exacerbated), and identified a series of challenges and threats. For instance, it noted that with the closing of the Balkan route, "there are strong indications that the current situation might increase the risk of migrant smuggling and trafficking in human beings by international organised networks".²⁴ Drawn up on the initiative of the field mission, the report was transmitted to the Permanent Council in Vienna. Some Heads of Delegation allegedly expressed a strong interest in this initiative. The Mission to Skopje likewise produced a fairly comprehensive background report on its activities in the area of the migrant and refugee crisis.²⁵ This report provided a timeline of migration-related events in the country as well as a list of activities undertaken by the mission in fields such as anti-trafficking, monitoring, and policing.

Additional reports have been produced on particular events (e.g., the Mission to Serbia produced a spot report on the incidents in Horgoš in 2015 to raise awareness with the Permanent Council) or particular issues (e.g., the Mission to Skopje produced a report on migration-related trafficking of human beings in May 2016, based on joint research carried out with the Macedonian police in Tabanovce). Whether broad or more focused in scope, these reports were not the result of requests from Vienna – although OSCE participating States welcomed them and parallel briefings were organized to inform key actors about their content (e.g., in February 2016 with the police representatives of the Visegrád countries, as the Balkan route was being closed). Rather, they were largely self-generated initiatives on the part of the

22 Cf. OSCE Mission to Serbia, *Background Report. Baseline analysis, project and non-project activities in the field of migration*, 31 March 2016, SEC.FR/230/16.

23 Ibid.

24 Ibid.

25 Cf. OSCE Mission to Skopje, *Update on Activities in the Area of Migrant/ Refugee Crisis*, 10 June 2016, SEC.FR/444/16/Rev.1.

missions. Such reports have only been produced for Serbia and Macedonia; nor have OSCE field missions produced a report covering the entire region. The missions in Tirana, Sarajevo, Pristina, and Podgorica have not issued reports focusing on migration, but have only reported on migration occasionally as part of their routine reporting activities.

Another impact of the migration crisis on the activities of OSCE field missions in the Western Balkans has been the (limited) intensification of their strategic co-operation on migration matters. This has particularly been true of the Missions to Serbia and Skopje, and to a lesser extent of the Presence in Albania. Co-operation between the missions was not formally organized, and took mostly place through informal meetings, at different levels and on an ad hoc basis. In November 2015, for instance, the Heads of OSCE Missions to Serbia and Skopje organized a joint visit to the one-stop centre in Preševo and to the Tabanovce transit station in Macedonia to “observe migrant management procedures and to discuss further cooperation”.²⁶ This initiative was described as “part of the enhanced information-sharing between the two field operations affected by the crisis”.²⁷ Likewise, in February 2016, the Heads of the OSCE Mission to Skopje and the OSCE Presence in Albania met to discuss the latest developments in the migration crisis and the possibility that closing the Balkan route could result in an influx of migrants to Albania. During the meeting, it was agreed to explore the option of conducting joint working-level meetings on the crisis.²⁸ At the management level again, OSCE meetings in Vienna offered the opportunity for OSCE Heads of Mission in the region to convene and discuss co-operation on migration-related matters, e.g., within the scope of the Permanent Council special session of 20 July 2016.

The migration crisis ultimately led to the intensification of relations between OSCE field missions in the region and the offices of international organizations and International Nongovernmental Organization (INGOs) active in the field of migration. Regular briefings were organized by UNHCR-Serbia and other UN agencies, as well as the EU, which the OSCE Mission to Serbia attended. The primary object of these meetings was to discuss the migration crisis. In Macedonia, meetings were held every week with representatives of the government, UN agencies (UNHCR, UNICEF, and others), as well as a wide range of INGO and NGO representatives (Save the Children, Red Cross, the Macedonian Young Lawyers Association and more). These were attended by the migration focal point and other OSCE officers. Similar meetings have been organized in other Balkan countries for the same purpose, and OSCE field missions have participated. In Montenegro, the practice of regularly discussing the migration crisis started when the Balkan route was closed. The primary purpose of these meetings was to exchange information

26 OSCE Mission to Serbia, cited above (Note 22).

27 OSCE Mission to Skopje, cited above (Note 25).

28 Cf. *ibid.*

about the current situation in the country and discuss the activities being pursued by the various actors. Although no international actor took full control of the agenda, the UNHCR clearly played the leading role, at least in Serbia.

Promoting a Human Rights-based Approach to the Crisis

OSCE field missions have been active in promoting a human rights-based approach to the migration crisis. They have, for instance, supported the development of a regional network of civil society organizations (CSOs) working on human rights protection. The work of the network, which was created in 2010, includes the field of forced and voluntary migration. The network facilitates the regular exchange of information between CSOs, provides legal analyses and serves as the basis for joint advocacy action at the national and international levels. From November 2015 onwards, OSCE field missions in the region have supported the organization of workshops on migration and international human rights law within this network. The Mission to Serbia, moreover, supported the translation into English of a 2015 report on human rights in Serbia by the Belgrade Centre for Human Rights, which assesses Serbia's compliance with international standards on the treatment of asylum seekers.²⁹

OSCE field missions in the region also supported the organization by other international bodies of regional meetings on the same issues. For instance, in 2015, they supported an international conference featuring ombudspersons and representatives of national human rights institutions from the Mediterranean, the Western Balkans, and other European regions, which resulted in the adoption of a joint declaration.³⁰ Likewise, they supported the organization of an international conference of ombudspersons in Tirana in September 2016 entitled "Challenges for Ombudsman Institutions with respect to mixed migratory flows". This conference ended with the adoption of the "Tirana Declaration on Migration", which will be forwarded to the UN for consideration.

Finally, OSCE field missions in the region helped to organize and participated in a two-day expert conference on "Safeguarding Rights of Asylum Seekers, Refugees and Other Persons in Need", organized by ODIHR in Warsaw in November 2015. The aim of the conference was to identify good practices in the treatment of asylum seekers and others and to promote policy measures in line with international law, international human rights law, OSCE commitments, and other international standards.

29 Cf. Belgrade Centre for Human Rights, *Human Rights in Serbia 2015*, Belgrade 2016, available at: <http://www.bgcentar.org.rs/bgcentar/eng-lat/wp-content/uploads/2013/04/Human-Rights-in-Serbia-2015.pdf>.

30 Cf. Ombudsman/National Human Rights Institutions, *Declaration on the Protection and Promotion of the Rights of Refugees and Migrants*, Belgrade, November 2015, at: <http://www.enhri.org/Asylum-and-Migration>.

Raising Awareness at the Community Level

OSCE missions, most notably in Serbia, have undertaken a number of activities to raise public awareness at the community level in response to the migration crisis. The Mission to Serbia co-operated with civil society representatives in southern Serbia (e.g., with the Preševo Youth Office) to promote a positive attitude towards migrants and refugees in the local population. In November and December 2015, it supported “Titulli”, an “independent, bilingual, online-based local media outlet in South Serbia”³¹ by providing content for a series of articles and photo galleries on migration-related topics. This initiative was very well received by the public, as media coverage in Serbia has generally been sympathetic to the plight of those caught up in the migration crisis.

In Bosnia and Herzegovina, the mission helped to organise a conference at the Faculty of Law in Banja Luka on the possibility of Bosnia and Herzegovina’s transformation from a country that exports migrants into one that welcomes them. The mission also declared itself ready to engage in dialogue with local communities to ease tensions related to the influx of migrants. An effective platform for such dialogue exists in the form of the 19 local “coalitions against hate crime”, which were set up with the support of the OSCE. These bring together citizens of all ages and local leaders from different faith and ethnic groups. In Macedonia and the other countries of the region, no mention was made of activities aimed at raising awareness.

Local Governance and Civil Society Capacity-building

In Serbia and Macedonia, a number of activities have been launched to reinforce the capacities of local authorities or civil society. In Serbia, the mission has assisted local administrations in areas hit by mounting migration pressures in identifying viable traffic-management solutions (e.g., facilitating dialogue among local authorities and the UNHCR).

In Macedonia, the mission will train a total of 60 frontline workers – social workers and NGO activists – in 2016. They are being deployed at border entry points and transit centres to enhance the early and proactive identification of victims, especially among high-risk groups (unaccompanied minors, migrants, refugees, asylum seekers, victims of violence) by frontline social workers.

In a similar vein, the Mission to Skopje sought to enhance access to justice and legal aid for victims of trafficking by advancing a multi-year project: Nearly 20 lawyers will be trained in representing and providing free legal aid to victims. This will enable them to receive hands-on experience

31 Authors’ interview at the OSCE Mission to Serbia.

through direct involvement in legal processes in ongoing cases of human trafficking and smuggling.

Likewise, in June and July 2015, the Mission to Skopje took steps to strengthen the capacity of professionals to address cases of people-trafficking and smuggling and apply the principle of non-punishment of victims, contributing to the training of more than 50 judges, prosecutors, and law-enforcement officers.

Capacity-Building in Policing and Addressing Migration-Related Crime

Some missions have also responded to the migration crisis by becoming more active in the field of police development. The Mission to Serbia, for instance, ran an extra-budgetary project entitled “Mobile Police Station”, which aimed to support communities by providing assistance and training to local police forces. Similar projects are ongoing in Macedonia: the Mission to Skopje has already provided training to more than 100 police officers, mainly from the border police, on the fight against organized crime and transnational threats. The scope of the training is not limited to, but includes, migration-related aspects of police work (in particular anti-trafficking and anti-smuggling measures). For instance, from May 2015 to March 2016, courses were delivered in co-operation with international partners on topics that included profiling and searching tactics, green-border observation training, and basic and advanced identification of falsified documents. In Bosnia and Herzegovina, the chief of police in Brčko expressed her interest in similar training activities, but owing to relatively low numbers of migrants arriving, the mission in Sarajevo did not follow up on her request. In Albania, the mission assisted the border police by providing computers to five border points with the explicit aim of boosting the capacity of local officers to address a possible increase in the numbers of migrants arriving.

These capacity-building measures in the field of (border) police development seek to address the issue of migration-related crime. With the closing of the Balkan route, smuggling and trafficking activities, already thriving at the onset of the crisis, have intensified in the region, and crimes related to illegal migration have become a real problem. Refugees and economic migrants, making up the mixed flows of migrants entering or transiting Western Balkan states, are indeed highly vulnerable to exploitation and human trafficking. Some missions have therefore committed resources to projects addressing this issue. For instance, in Albania, an 18-month project entitled “Protection of children from trafficking, exploitation and irregular migration” was launched in January 2016. The project primarily targets Albanian would-be emigrants by informing them about legal obligations, promoting children’s vocational education in remote areas, and offering scholarships. Another project, launched in June 2016 by the OSCE Special Representative and Coordinator for Combating Trafficking in Human Beings, targets all migrants

entering or transiting through OSCE participating States or Partners for Co-operation. Entitled “Combating trafficking in human beings along migration routes”, this two-year extra-budgetary initiative is supported by the Mission to Skopje and other OSCE field presences in the region. It will involve a total of 200 officials from various institutions in the region, with the aim of enhancing the capacity of participating States from the region and beyond to rapidly identify victims and effectively prosecute traffickers, thus strengthening the overall criminal justice response along these routes.

OSCE field missions, furthermore, have supported the creation of joint operational platforms as a means to increase trust, enhance the exchange of information, and promote convergence between police, customs, and other departments across the borders of Western Balkan states. They supported, for instance, the establishment, about two years ago, of bilateral information exchange centres between Albania and Kosovo, and Macedonia and Montenegro as well as plans to establish trilateral exchange centres between Kosovo, Albania, and Montenegro and Albania, Greece, and Italy. Similar centres have already been established in other Western Balkan countries – often on the initiative of the OSCE. They enable law enforcement officers from different countries to meet physically to discuss relevant issues, and can therefore easily be leveraged to strengthen the fight against migration-related crime. Likewise, the Mission to Skopje sought to facilitate the establishment of a common Greek-Macedonian contact centre through various channels, but its attempt has so far not been successful, due to the naming issue.

Finally, OSCE field missions have helped to organize or have participated in various workshops, meetings, and conferences for regional law enforcement officers on combating migration-related crime. By fostering cross-border co-operation in that area, OSCE field missions seek to encourage the exchange of best practices, enhance communication, and thereby increase the effectiveness of anti-trafficking and anti-smuggling measures. In September 2016, for instance, the Mission to Montenegro helped to organize a workshop on irregular migration and migration-related crimes. The workshop was initiated by the OSCE Secretariat and supported by the International Organization for Migration (IOM). Similarly, the Mission to Serbia organized a workshop in co-operation with the IOM and the UNODC in November 2015 with a focus on crimes related to irregular migration in the Western Balkans. It also supported the participation of representatives from Serbia’s Ministry of the Interior in a regional meeting of law enforcement authorities held in Skopje on transnational organized crime, including migrant smuggling.

In April 2016, the mission supported the organization of regional meetings of police officers involved in migration-related crimes and trafficking in human beings. The initiative, initially launched by Hungary, was joined by Serbia and Macedonia and supported by the OSCE Missions to Serbia and Skopje. These two OSCE Missions pushed to widen the geographical scope of these law enforcement meetings. They also looked for ways to institution-

alize them. This led to the establishment of a regional platform that provides logistical and technical assistance to meetings of law enforcement authorities in the region designed to address operational issues. Likewise, OSCE field missions recently supported the organization of a bilateral meeting between Macedonian and Albanian law enforcement authorities, a regional meeting of Western Balkan national anti-trafficking co-ordinators focusing on unaccompanied migrant minors (May 2016), a regional meeting of anti-trafficking national contact points and NGO representatives (September 2016), and a regional meeting of the heads of law enforcement departments from Western Balkan countries and beyond (October 2016). Support for these meetings is not unusual in the work of OSCE field missions – it is part of their ordinary anti-trafficking work. But the potential or actual increase in migration-related crime has placed migration high on the agenda of anti-trafficking co-operation. This increase is reflected in the work of OSCE field missions.

Support for Research Activities

The migration crisis led to a marginal increase in the missions' interest in or support for research activities. In November 2015, the Mission to Serbia, for instance, provided logistical support for Professor Mark Latonero's research on the use of new technologies in migration issues for the organization of a series of consultative meetings with key actors in Serbia. Similarly, in its new 2015-2020 strategy on Countering Violent Extremism (CVE), the Mission to Bosnia and Herzegovina identified the need to increase support for research on the role of Salafist movements in the country. Although CVE and migration are always separate in the missions' programmes, responses to both overlap in fundamental ways.

Conclusion

In the past year or so, the OSCE has produced a series of documents related specifically to the migration crisis, and field missions have unfolded a broad variety of activities. A first overview of findings, not meant to be exhaustive, but rather responsive to current developments may help in gathering "fresh" ideas and impressions that could inform future OSCE activities. The approach and role of the missions in the region during the period under review differed considerably, although their mandates are similarly limited in flexibility. What can be observed that migration-related developments in the host countries have been addressed from various angles in a largely ad hoc manner. Despite the limitations in flexibility and funding to react to unforeseen developments, the missions have attempted to be proactive, not least in supporting the host country authorities. Although most European states see migration as a security issue, the overall impression we received when carrying

out our research was that the issue was considered to be a matter for the European Union rather than the OSCE. In this respect, the specific situation of the Western Balkans countries in relation to the European Union continues to merit closer consideration of the particular challenges confronted by the OSCE field operations. The research presented here shall serve as a contribution towards further analysis on how far the current development have the potential to change the work of the OSCE and its field missions in South Eastern Europe.

Migration Crisis in the OSCE Area: Action Lines from the OSCE Parliamentary Assembly

The Arab Spring, the collapse of the Gaddafi regime in Libya, and the outbreak of the Syrian Civil War have resulted in the OSCE area becoming a highly desirable destination, and also a transit region, for hundreds of thousands of people fleeing war, misery, and persecution. This migration places the OSCE participating States under intense pressure, and, over the past two years, they have experienced the sharpest rise in the number of migrants arriving since the early 2000s – mostly from the Middle East, Afghanistan, and Africa. These increasing flows directly affect regional stability and security, becoming a challenge that necessitates a comprehensive and multilateral response.

Since the current situation requires a co-ordinated response, the OSCE, whose cross-dimensional approach to security enables it to address issues ranging from the securitization of migration flows to protecting the rights of refugees, occupies a unique niche in the division of labour among international actors working on the migration crisis. As the Annual Declaration of the OSCE Parliamentary Assembly (OSCE PA) highlights, the current migration crisis “can only be dealt with collectively and with solidarity”.¹

At the same time, it is crucial to note that the OSCE area is just one part of the migratory corridor. The flows affecting it represent only a small fraction of the overall numbers of globally displaced people, which are at their highest level ever according to the United Nations. In 2015, one in every 122 human beings was either a refugee or otherwise displaced. Of the 20.2 million refugees worldwide,² 86 per cent resided in developing countries.³ South-South migration is more significant than the South-North flow visible in the OSCE area, and, in particular, the flows of refugees are significantly larger in the case of the former.⁴

The aim of this contribution is twofold. The first part focuses on explaining how the parliamentary dimension of the OSCE, its Parliamentary

Note: The views contained in this contribution are the author's own.

1 Resolution on the Security Challenges of Migration, in: OSCE PA, *Tbilisi Declaration and Resolutions Adopted by the OSCE Parliamentary Assembly at the Twenty-Fifth Annual Session, Tbilisi, 1 to 5 July 2016*, pp. 52-53, here: p. 52, available at: <http://www.oscepa.org/meetings/annual-sessions/2016-tbilisi-annual-session>.

2 Cf. UNHCR, *Tim Gaynor, 2015 is likely to break records for forced displacement – study, 18 December 2015*, at: <http://www.unhcr.org/5672c2576.html>. For further details see: UNHCR, *Mid-Year Trends 2015*, December 2015, available at: *ibid*.

3 Cf. *Myths, Facts and Answers about Refugees and Migrants*, prepared by UNRIC, IOM, UNHCR, UNDP and OHCHR, 4 November 2015, at: <https://weblog.iom.int/myths-facts-and-answers-about-refugees-and-migrants>.

4 Cf. *ibid*.

Assembly, has been working with regard to the current refugee crisis. The migration crisis in the OSCE area has been one of key areas of focus in the work of the Assembly over the past three years, with action lines ranging from setting up an ad hoc committee on migration to holding general debates during the plenary sessions leading to the adoption of Resolutions with a practical focus. The second part of the article puts forward several recommendations to the OSCE participating States, OSCE executive structures, and parliamentarians as to how to further strengthen the OSCE and the OSCE Parliamentary Assembly's engagement in resolving the current refugee crisis.

The OSCE Parliamentary Assembly's Mandate and Expertise

The main objective of the parliamentary dimension of the OSCE is to build trust through dialogue. Originally established by the CSCE's 1990 Paris Summit, the OSCE PA brings together over 320 parliamentarians from across the 57-nation OSCE region. The primary task of the Assembly is to strengthen the democratic legitimacy of the Organization and support and promote OSCE principles and facilitate dialogue between representatives of the one billion plus people of the OSCE area.⁵

As embodied in the OSCE PA Rules of Procedure and further highlighted in the paper "Our common vision for the OSCE Parliamentary Assembly: Supporting OSCE principles and facilitating parliamentary dialogue" that was prepared for the 25th anniversary of the Assembly in Spring 2016, the Assembly's key responsibilities directly pertaining to the refugee crisis include:⁶

- serving as a forum for parliamentary dialogue, raising and debating solutions to the most pertinent issues in the OSCE area, as well as subjects addressed during the Ministerial Council and Summit meetings;
- contributing to strengthening international co-operation and supporting the implementation of commitments made by the participating States as contained in the Helsinki Final Act and subsequent documents;
- developing and promoting dialogue-based mechanisms for the prevention and resolution of conflicts;
- supporting the strengthening of democratic institutions and the implementation of commitments in the OSCE participating States;

5 For additional details, see: Andreas Nothelle. The OSCE Parliamentary Assembly – Driving Reform, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2006*, Baden-Baden 2007, pp. 347-373; Michael Fuchs/Angelika Pendzich-von Winter, The OSCE Parliamentary Assembly, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1995/1996*, Baden-Baden 1997, pp. 355-364.

6 For additional details, please refer to OSCE PA President Ilkka Kanerva's vision paper, Spring 2016, at: <http://www.oscepa.org/documents/all-documents/annual-sessions/2016-tbilisi/reports-19/3362-osce-pa-vision-document/file>.

- promoting awareness of the OSCE and its tools among parliamentarians and the public; and
- contributing to the development of OSCE institutional structures and co-operation between OSCE institutions.

There are several key means used to implement these objectives. Foremost among them is the Declaration, which is debated and adopted each year at the Assembly's Annual Session. The Annual Declaration, composed of Resolutions put forward by parliamentarians, reflects the collective voice of the Assembly and serves as its key message for the OSCE Ministerial Council and the participating States.

The Assembly meetings also serve as a platform for the exchange of best practices among parliamentarians. The two additional statutory meetings that take place each year alongside the Annual Session, i.e. the Autumn and Winter Meetings of the Assembly, maintain a certain flexibility of agenda that enables discussions and the exchange of best practices on the most topical issues.

Since the consensus rule, which characterizes the work of the governmental side of the OSCE, does not apply to the OSCE PA's decision-making procedures, the latter benefits from greater flexibility and adaptability of its structures in dealing with emerging and emergency issues. OSCE parliamentarians, and particularly the Assembly leadership, promote the decisions adopted by the OSCE via active interaction with the media, raising the visibility of the OSCE's work, principles, and objectives. In recent years, the Assembly has also focused more on the work of parliamentarians "on the ground". This has taken the form of high-level visits, fact-finding missions, and field visits to witness the situation on the ground first hand and raise public awareness of it.

Finally, the Assembly, whose committee structure reflects the three baskets of the Helsinki Final Act, has also developed a set of useful mechanisms such as ad hoc committees and special representatives that enable targeted parliamentary engagement with specific issues as they emerge.

The OSCE PA: Political Engagement for Concrete Results

Voting for Action

Over the past three years, the issue of migration has been high on the OSCE PA's agenda, and it has adopted concrete proposals for action as part of its Annual Declarations. Following a debate in the plenary session on the humanitarian crisis in Syria, the 2013 Annual Declaration included a Resolution on the Situation in the Middle East and its Effect on the OSCE Area. The resolution highlights the Assembly's deep concern with "the humanitarian

crisis of the refugees fleeing the war and its possible destabilising effects on the area”, urging the OSCE participating States to “comply with their commitments to humanitarian matters in order to offer the greatest possible assistance to Syrian refugees”.⁷

In 2014, two migration-related Resolutions were adopted, the Resolution on the Situation of Refugees in the OSCE Area and the Resolution on Comprehensive Immigration Reform. Underlining that “international actors like the OSCE and the European Union cannot ignore the humanitarian consequences of the Mediterranean crises”,⁸ these Resolutions call on the European Union to revise its Dublin system, to ensure a more equitable division of responsibilities, and to decrease the strain on countries of first entry, as well as to explore new legal channels for safe access to the EU. They also call on the OSCE participating States to strengthen their commitment and further develop tools to fight human trafficking, protect the most vulnerable refugee groups, and combat gender-based violence. Furthermore, they encourage the OSCE to take advantage of its multi-dimensional approach to security and field presences, pursuing policies to support institution-building and border management.⁹

In 2015, the PA adopted the Resolution Calling for Urgent Solutions to the Tragedy of Deaths in the Mediterranean, which highlights the “full right of all people fleeing from persecution and armed conflict to apply for asylum in an OSCE country, as enshrined in the Geneva Convention and other international covenants”,¹⁰ and calls for reform of the Dublin system.

The 2016 Annual Session was equally characterized by a strong focus on migration issues, reflecting both humanitarian concerns and the increased security debate around the issue. The Resolution on the Rights of Refugees stresses the need to reconcile the imperatives of humanitarian protection and state security rather than seeing these as irreconcilable opposites, and calls for the harmonization of refugee admission norms among the OSCE participating States, which should be developed “in co-operation with the European Agency for the Management of Operational Cooperation at the External Bor-

7 Resolution on the Situation in the Middle East and Its Effects on the OSCE Area, in: OSCE PA, *Istanbul Declaration and Resolutions Adopted by the OSCE Parliamentary Assembly at the Twenty-Second Annual Session, Istanbul, 29 June to 3 July 2013*, pp. 41-42, available at: <https://www.oscepa.org/meetings/annual-sessions/2013-istanbul-annual-session>.

8 Resolution on Comprehensive Immigration Reform, in: OSCE PA, *Baku Declaration and Resolutions Adopted by the OSCE Parliamentary Assembly at the Twenty-Third Annual Session, Baku, 28 June to 2 July 2014*, pp. 41-44, here: p. 41, available at: <http://www.oscepa.org/meetings/annual-sessions/2014-baku-annual-session>.

9 Cf. *ibid.* and Resolution on the Situation of Refugees in the OSCE Area, in: *Baku Declaration and Resolutions*, cited above (Note 7), pp. 45-48.

10 Resolution on Calling for Urgent Solutions to the Tragedy of Deaths in the Mediterranean, in: OSCE PA, *Helsinki Declaration and Resolutions Adopted by the OSCE Parliamentary Assembly at the Twenty-Fourth Annual Session, Helsinki, 5 to 9 July 2015*, pp. 49-51, here: p. 50, available at: <https://www.oscepa.org/meetings/annual-sessions/2015-helsinki-annual-session>.

ders of the Member States of the European Union (Frontex) and the European Asylum Support Office (EASO)".¹¹ The Resolution on the Security Challenges of Migration focuses on finding solutions to security concerns "stemming from the limited control" of migration flows, and calls on the OSCE to "address security in the context of migration as an integral part of an enhanced OSCE role in addressing migration".¹²

Beyond these Resolutions, the Assembly also devoted sessions at its Winter Meetings in February 2015 and February 2016, at the Helsinki Annual Session in July 2015 and the Tbilisi Annual Session in July 2016, at the Ulaanbaatar Autumn Meeting in September 2015 and the Skopje Autumn Meeting in October 2016 to discussing possible solutions to the refugee and migrant crisis. Exchanging views with top international experts, including IOM Director General William L. Swing, European Commissioner for Humanitarian Aid and Crisis Resolution Christos Stylianides, UNHCR representatives, and NGOs, the Assembly raised the visibility of the issue among its members, spurring inter-parliamentary dialogue and the exchange of views, and encouraging them to work to find and implement a viable solution both within the OSCE forum and nationally.

The scope of the Assembly's work on migration has increased over the years. The Assembly's specificity has been in adopting a broader approach to migration-related issues, going beyond the economic and environmental dimension. For the Assembly, this has always been a major humanitarian concern as well. Thus, both the General Committee on Democracy, Human Rights and Humanitarian Questions and the General Committee on Political Affairs and Security have gradually become more active and vocal on the topic. Key issues include protection of the human rights of the incoming populations, their integration into host societies, and a more humane approach to migration, alongside security aspects of migration flows. As noted in the OSCE PA Humanitarian Committee Report, "while recognizing that there are security aspects to migration flows, there is a critical need to prevent the over-securitization of discourse and policy-making related to migration, particularly following the Paris tragedy. [...] The risk of securitizing migration is that it can lead to the legitimization of extraordinary responses. Although a need for better screening procedures is evident, those fleeing war and seeking asylum in Europe should not be demonized".¹³

11 Resolution on the Rights of Refugees, in: *Tbilisi Declaration*, cited above (Note 1), pp. 50-51, here: p. 51.

12 Resolution on the Security Challenges of Migration, cited above (Note 1), pp. 52 and 53.

13 OSCE PA, *Migration Crisis in the OSCE Area: Towards Greater OSCE Engagement. Thematic report prepared by the Bureau of the OSCE PA General Committee on Democracy, Human Rights and Humanitarian Questions*, February 2016, p. 10, available at: <https://www.oscepa.org/documents/all-documents/winter-meetings/2016-vienna-1/reports-1>.

The second notable vector of the Assembly's activities focuses on acquiring first-hand information on the situation along the migrant routes in the OSCE area, notably the Central Mediterranean and the Balkan routes, and on the conditions and challenges facing migrants awaiting decisions on their legal status in refugee camps in the OSCE area.

Searching for best practices and concrete lines of action both for parliamentary diplomacy and for the OSCE in general, the Assembly has worked extensively in the field in 2015 and 2016 – in Şanlıurfa in Turkey, Lampedusa and Mineo in Italy, Preševo and Miratovac in Serbia, and Calais in France, to mention but a few. This work on the ground and human contacts have enabled the parliamentarians to carry out fact-finding missions, getting a first-hand feel of the situation and a better understanding of what needs to be adjusted in national, European, and international migration policies.

Visits of this kind not only enable OSCE PA members committed to the issue to assess and observe the situation on the ground, but also raise international visibility, which can encourage better co-ordination, more solidarity, and burden-sharing in resolving the crisis. The PA has a unique position within the OSCE structures as a key contributor to awareness-raising both within parliaments and among populations.

This field work has also enabled the Assembly members to learn more and co-operate more closely with the OSCE field missions, notably in the Balkans, actively supporting the host countries on issues related to migration, both through capacity-building and technical assistance programmes.

Turning Point: Establishment of the OSCE PA Ad Hoc Committee on Migration

On 25 February 2016, the OSCE PA Standing Committee, which comprises the heads of national delegations and members of the Bureau and guides the work of the Assembly, unanimously adopted a decision to establish the OSCE PA Ad Hoc Committee on Migration. The Committee's mandate defines its role as follows:

- Serve as a focal point for the OSCE PA's work in the field of migration in all three dimensions of the OSCE: political and security questions; economic issues; and human rights and humanitarian questions;
- Develop policy recommendations aimed at enhancing OSCE work in the field of migration and at improving the treatment of, and prospects for, migrants in OSCE countries;

- Promote discussion within the Assembly on issues related to migration, and promote parliamentary exchanges of best practice in these fields;
- Work closely with the OSCE Secretariat and Institutions as well as with relevant outside actors on issues related to migration to promote the understanding among the members of the Assembly of the importance of the work done in this field.¹⁴

The Committee thus pursues three distinct lines of action. First, it makes field visits to monitor developments on the ground and develops recommendations to national parliaments, the OSCE participating States, and OSCE institutions on this basis. Second, it ensures that the refugee crisis in Europe is kept high on the agenda of the OSCE PA, promoting discussion and the inclusion of concrete recommendations in the Assembly's Declarations. Finally, it also works towards the Assembly's overall objective of improving co-ordination and co-operation within the Organization, by launching joint initiatives with its various institutions.

The Assembly has already established fruitful co-operation with the OSCE Informal Working Group Focusing on the Issue of Migration and Refugee Flows, ODIHR, and the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings. These initiatives are all guided by the principle of joint action and the pooling of efforts, which can enable governments, their foreign-service branches, and legislatures to co-ordinate their efforts to tackle root causes.

A Parliamentary Vision of Ways Forward for the OSCE: A Multidimensional Response

Greater Intra-Organizational Coherence of Efforts

In the Tbilisi Declaration of July 2016, the OSCE PA welcomed the OSCE Secretary General's initiative to devote the Organization's Spring 2016 Security Days event to the issue of migration – specifically to the security implications of mass movements of people. This edition of the Security Days was designed to enable the Organization, in consultation with its international partners, national governments, and NGOs, to identify the best ways it could make a viable contribution and complement the work of its partner organizations on migration-related issues.

The OSCE possesses several key assets it should capitalize on: its extensive toolbox, the geographical scope of its area of action, which stretches

14 OSCE PA, *Ad Hoc Committee on Migration*, at: <https://www.oscepa.org/about-osce-pa/parliamentary-committees-groups/other-committees-groups/226-ad-hoc-committee-on-migration>.

from Eurasia to North America, and its large field missions and inclusive mandate.

However, apart from a clear need for continuous external co-operation, the OSCE, with its Secretariat, independent institutions, and field presences spread over 20 countries needs further development and broader co-ordination to put in place a joint OSCE-wide plan of action to help mitigate the situation and avoid overlap in the activities of its institutions. As things stand, the OSCE's decentralized nature can be the cause of occasional information losses and a lack of sharing best practices.

The Report "Migration crisis in the OSCE area: towards greater OSCE engagement", which the Assembly adopted in February 2016, also highlights several priority areas for action, progress on some of which can already be seen six months later:

Developing an Organization-wide response, with clearly identified roles and responsibilities of each OSCE body, would ensure better coherence, co-ordination and impact. Offices throughout the OSCE family should be encouraged to come up with specific project proposals on this issue. A clearer division of portfolios on migration-related issues within the three dimensions of OSCE activities is also needed.¹⁵

It should nevertheless be kept in mind that the OSCE field operations, whose mandates were conceived in different historical circumstances and against different country-specific backgrounds, are unevenly equipped to address migration-related issues. Additional attention could also be paid to possible synergies and joint projects to be led by neighbouring field missions, as successfully tested in 2015 by the OSCE Mission to Serbia and the OSCE Mission to Skopje during their joint monitoring of refugee-related developments at the border between the two countries.

Parliamentary Exchange of Best Practices

Solving the current migration and refugee crisis in the OSCE area is primarily a political matter. To adjust to the current situation, new policies and laws need to be put in place, above all to ensure that the migrants and refugees who arrive are given the opportunity to become an asset rather than a liability for the system.

This makes the role of the OSCE Parliamentary Assembly, which brings together parliamentarians from all 57 participating States, of primary importance. Using its political visibility and outreach abilities, the OSCE PA should continue to promote a message of solidarity, tolerance, and balanced action when it comes to state policies dealing with the refugee crisis. It also needs to

¹⁵ OSCE PA, cited above (Note 12), p. 5.

continue raising awareness of the issue, notably through its annual Resolutions, general debates, and fact-finding field visits.

As the Assembly's report notes: "OSCE parliamentarians should acknowledge their responsibility to lead by example in combating stereotypes against migrants and refugees, promoting anti-discrimination legislation and by communicating rationally and factually on migration".¹⁶

In order to promote the sharing of best practices, members of the OSCE PA could showcase examples of migrant and refugee integration from their own constituencies, highlighting key challenges and opportunities faced during the process and sharing best practices. Exchanges of this nature and targeted information campaigns could help to boost understanding among the population of the participating States of the benefits brought by migrants.

Recommendations to the OSCE Participating States

Over the past two years, the migration and refugee crisis has led to increased tensions and divisions among OSCE participating States, notably in the Balkans, as well as between EU and non-EU countries, and Western and Eastern European states within the EU. Large-scale refugee flows are a new experience for some of the participating States, which require additional technical support and capacity-building to cope with the situation.

The OSCE PA has made two distinct suggestions to the OSCE participating States: first, to consider the establishment of a high-level OSCE coordinating body on migration, supported by a network of focal points throughout OSCE institutions and structures; second, to create a thematic field mission, enabling a more focused and coherent response to the migration challenges currently facing the region.

The thematic field mission could be based in one of the EU countries most affected by the crisis, with a remit to operate throughout the OSCE area. Its mandate could focus on "strengthening communication channels between governments and national agencies of neighbouring states and countries of origin, transit and destination, to ensure better communication, co-ordination and de-escalation of tensions", while also tasking it to "provide training on migration management and migrant integration, facilitate exchange of best practices for officials dealing with refugee-related issues and monitor the conditions of refugees in the OSCE participating States".¹⁷

The key challenge for this proposal would be, of course, to ensure a "buy-in" from all participating States, as well as adequate and sustainable funding, possibly through extra-budgetary contributions.

Adoption of a Ministerial Council decision addressing the issue of migration will also be an important step forward. The Parliamentary Assembly

¹⁶ Ibid., p. 7.

¹⁷ Ibid., p. 6.

regretted that the 2015 OSCE Ministerial Council did not proceed with the draft decision on the OSCE's Response to the Ongoing Migration and Refugee Crisis, and is currently carefully following the work on the subject for the upcoming 2016 Ministerial Council. It should be borne in mind that the last Ministerial Council Decision on the issue of migration was adopted more than seven years ago, in December 2009.¹⁸

Finally, with developments in the Mediterranean directly affecting the OSCE area, work with OSCE Mediterranean Partners for Co-operation needs to be enhanced both on migration-related issues and beyond. The interrelated challenges can most efficiently be tackled jointly, which highlights the need to move the existing partnership to a new level. In the field of migration-related co-operation, some of the first steps forward could include extending an invitation to the Partner States to identify within their structures a focal point on migration, which will participate in the OSCE network of migration focal points. Invitations could also be extended to OSCE Mediterranean Partners to participate in existing migration-related capacity-building training events, such as those conducted by ODIHR.

It is time to stop waiting and start acting.

18 Cf. Decision No. 5/09, Migration Management, MC.DEC/5/09 of 2 December 2009, in: Organization for Security and Co-operation in Europe, *Seventeenth Meeting of the Ministerial Council, 1 and 2 December 2009*, Athens, 2 December 2009, pp. 24-26, available at: <http://www.osce.org/mc/67621>.

Outside the Focus

The Second Basket: Evolution of the Economic and Environmental Dimension of the OSCE

The economic and environmental dimension of the OSCE originated in the “second basket” of the 1975 Helsinki Final Act, “Co-operation in the Field of Economics, of Science and Technology and of the Environment”. From our present-day perspective it may seem surprising how large this basket was and how much it included.

The second chapter of the Helsinki Final Act, in which the provisions of the second basket were enumerated, contained a preamble and six substantive parts: commercial exchanges; industrial co-operation and projects of common interest; provisions concerning trade and industrial co-operation; science and technology; environment; and co-operation in other areas (development of transport, promotion of tourism, economic and social aspects of migrant labour, training of personnel).

There was of course a specific historical reason for this multiplicity of desires, promises, and agreements, namely the necessary and difficult task of strengthening links between two fundamentally different economic systems, that of the market economy countries, on the one hand, and the state-trading countries, on the other. Already in the preamble, the participating States confirmed their will to intensify their co-operation irrespective of the diversity of their social and economic systems. This was qualified, however – also in the preamble – with the reference to a principle of reciprocity, “permitting, as a whole, an equitable distribution of advantages and obligations of comparable scale”.¹ In the course of the co-operation, there was to be an attempt to compensate for one-sided market advantages and imbalances.

In this context, it proved difficult to include the according of most favoured nation status in the Final Act, as desired by some states that did not belong to the General Agreement on Tariffs and Trade (GATT, today the World Trade Organization, WTO). Still, agreement was reached on the formula: “The participating States [...] recognize the beneficial effects which can result for the development of trade from the application of most favoured nation treatment”.²

It is worth noting that, for many Western European countries, the negotiated elements of the second basket already fell at that time within the exclu-

Note: This contribution is an expanded version of the text previously published as: Kurt P. Tudyka, Whither the Second Basket? In: *Security Community* 2/2015, pp. 6-8.

1 Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 141-217, here p. 156.

2 Ibid., p. 157.

sive jurisdiction the European Economic Community (EEC, today the European Union). The European Commission, although not formally a participant in the conference, therefore played a substantial role in the consultations. The acting president of the European Council (Italian Prime Minister Aldo Moro, who was murdered in 1978) signed the Final Act not only on behalf of the Italian Republic but also in the name of the EEC.

The second basket also figured prominently in the concluding documents of the Madrid and Vienna Follow-up Meetings of 1983 and 1989, respectively. The participating States declared their willingness to strengthen their economic co-operation, and a special conference was convened to this end in Bonn in the spring of 1990. However, with the sudden disintegration of the Eastern Bloc economic system, the agenda changed. The transformation of the real-socialist state-run systems into market economies became the centre of attention. With the overcoming of the division of Europe into systems – not only in the economic sphere – the task originally set for the Bonn gathering had become obsolete.

Transformation

The political upheavals of the years 1989-90 heightened and transformed the significance of economic and social factors for security policy. Arrangements for turning conflict into coexistence were replaced by arrangements to turn coexistence into co-operation. The CSCE/OSCE was confronted with new challenges, among them the transformation of the planned economies into functioning and environmentally sustainable market economies. The Bonn Conference marked an upswing – albeit a short-lived one – of the economic dimension. In the concluding document, the participating States emphasized the connection between political pluralism and a market economy, and agreed on a series of principles that were to determine the process of reform: free elections, multi-party democracy, rule of law, protection of private property, environmentally sustainable economic growth and development, the right to freely establish independent trade unions, and the expansion of free trade and the free flow of capital.

In 1992, the Committee of Senior Officials (later renamed the Senior Council) was charged with convening as an Economic Forum. Its task was to stimulate dialogue on the transition to and development of free market economies and on economic co-operation and to encourage activities already underway within specialized international organizations.

This Forum was intended to provide “senior officials”, economic policymakers, parliamentarians, and representatives of non-governmental organizations (NGOs) with an opportunity to exchange opinions and experiences and discuss co-operation and the transformation towards a market economy.

In 1993, the Forum's first meeting was attended by a particularly large number of representatives of international organizations. In February 1994, the Forum held a seminar in Bishkek on promoting small and medium-sized enterprises. Despite the participation of numerous international organizations once again in the Forum's second meeting in March 1994, and the introduction of a new element in the form of the participation of five Mediterranean littoral states that are not OSCE participating States, as well as experts from the Commonwealth of Independent States (CIS), it did not prove possible to maintain the Forum's key function, namely to act as a platform for dialogue between decision-makers in the various governments as well as the public and the private sectors.

The second Economic Forum seminar, held in Tallinn in September 1994 on the topic of "Business and Environment", focused on discussions of practical steps to improve the environmental situation in the region. These included effective economic instruments and incentives for sustainable economic development, particularly the transfer of safe and environmentally sound technologies.

As at previous meetings, the document of the 1994 Budapest Summit also mentioned environmentally sound policies. The assembled representatives suggested the creation of environmental centres in the Russian Federation and the participating States that had recently gained independence. The aim of such centres would be to encourage broad participation of the public and private sectors, including NGOs, in decision-making processes related to the environment.

The Forum's third meeting, in 1995, expanded the discussion to include new areas of concern. However, the Forum failed once again to bring about an intense and comprehensive discussion process between the senior officials, businesspeople, and economic experts present. There was general agreement that for the Forum to be successful required the active participation of a broad spectrum of high-ranking representatives of governments, international institutions, the private sector, business associations, trade unions, academic institutions, and NGOs.

As the contributions they made to the fourth OSCE Economic Forum in Prague in 1996 (and a preparatory meeting held a few months earlier in Geneva) showed, the participating States had differing views on the breadth of the economic dimension of security and even of its place within the OSCE. Thus, the representatives of a number of states stressed legal and contractual certainty; the protection of property; and stable, reliable, and predictable economic policies, while others mentioned economic early-warning systems, and yet others proposed encouraging environmentally sustainable methods of production.

With regard to the Lisbon Summit in 1996, a wide range of economic aspects of security were discussed that were considered to be relevant to the debate on a common and comprehensive security model for Europe for the

21st century. In the run-up to the event, representatives of business had tabled the creation of a “European Business Council” for discussion. Debates on the extent of the economic dimension, a seminar in Tallinn on the environment, and the reference at the Budapest Summit to the need for action in the area of nuclear security had already shown how the meaning of economic security was evolving. This development was also reflected in the concluding document of the Lisbon Summit adopted by the participating Heads of State or Government in December 1996.

The document called for the OSCE to focus on identifying risks to security arising from economic, social, and environmental problems. It stressed the ability of regular consultations with international economic and financial institutions to improve the OSCE’s ability to recognize and evaluate security-related consequences of economic, social, and environmental developments at an early stage.

If the security of the economy was at the heart of the OSCE’s efforts during the Cold War and in the early years of transformation, the Lisbon Document recognized that the economy could itself pose a threat to security. As a result, the document called for the participating States to give more attention to these risks and possible means of alleviating them.

Under the overall topic of “Market Economy and the Rule of Law”, the fifth meeting of the Economic Forum in 1997 dealt with the social aspects and political risks of transformation as well as the role of economic confidence-building as an aspect of the promotion of security. The participants discussed the importance of reliable legal norms for the economy; it was stressed that tolerating statutory violations such as bribery, money laundering, and corruption undermines public support for democracy and the market economy.

Subsequent Forums were dedicated to topics including security aspects of energy developments in the OSCE area (1998), security aspects in the field of the environment (1999), economic aspects of post-conflict rehabilitation (2000), transparency and good governance in economic matters (2001), co-operation for the sustainable use and protection of the quality of water in the context of the OSCE (2002), trafficking in humans, drugs, small arms and light weapons (2003), demographic trends, migration, and integrating persons belonging to national minorities (2005), secure transportation networks and transport development (2006), maritime and inland waterways co-operation (2008), and development of sustainable energy and transport (2011). The debates in the 2014 Forum focused on joint approaches to disaster management. This was in response to a decision of the 2013 Kyiv Ministerial Council, which had called for enhanced co-operation among participating States to reduce the risks posed by natural and man-made disasters.³ When one considers this breadth of topics, it raises the question of which concept of security is

3 The annex at the end of this contribution details all the many topics covered by the Forum over the years.

being applied. Precisely whose security are we talking about here? The issue of the arms industry, disarmament, and conversion, which is also problematic in view of this sector's role in the economy, was not raised.

The Lisbon Document not only expanded the range of tasks under the economic dimension, it also created an institutional basis. The Permanent Council was tasked to develop a mandate for a Co-ordinator of Economic and Environmental Activities (CEEAA) within the OSCE Secretariat. The mandate was adopted at the 1997 Ministerial Council Meeting in Copenhagen, and an office was established in Vienna. Nonetheless, the range of instruments available to the Organization for its work in this area remained limited. Subsequent concluding documents have therefore repeatedly stressed the necessity of co-operation with other international institutions working in this field in Europe, which can be considered to indicate that the OSCE was looking for ways to retain this dimension's relevance.

The 2004 Ministerial Council in Sofia agreed to undertake a root-and-branch reform of the Economic Forum with the aim of increasing its policy orientation before, during, and after its meetings. To this end, it was called to focus each meeting on issues in areas where the OSCE could bring added value, to strengthen its role as a framework for political dialogue among the participating States on key questions in the economic and environmental dimension, to improve its strategic orientation, and to concentrate on practical proposals. According to this Ministerial Council Decision, the Economic Forum should enable "more effective" participation of officials and experts from the participating States, relevant international, regional, and subregional organizations, financial institutions, representatives of academia and the business world, and NGOs. In 2006 the Forum was renamed the Economic and Environmental Forum, in line with the designation of the OSCE's second dimension. Since then, the topics dealt with within the Forum have occasionally also been the subject of additional seminars.

For instance, a regional seminar for fire brigades, trainers, and managers from the South Caucasus and Western Balkans was held in Antalya on combating wildfires.⁴ Water management was the subject of a workshop on environment and security issues in the Southern Mediterranean region. The Office of the OSCE Co-ordinator (OCEEAA) supported bilateral talks between Azerbaijan and Georgia to finalize the Kura River Basin Agreement on the protection and sustainable use of water resources. Also in 2014, the Office held three regional workshops in Dushanbe, in collaboration with the World Customs Organization (WCO) and the United Nations Economic Commission for Europe (UNECE), on customs risk management, trade facilitation, and the implementation of a trusted-trader programme.

The Office has also concerned itself with the implementation of the United Nations Convention against Corruption. Here, issues of interest in-

4 For details of this and the following examples, cf. Organization for Security and Co-operation in Europe, *Annual Report 2014*, pp. 40-41.

cluded codes of conduct for public officials, transparency in public procurement, the protection of whistleblowers, and conflicts of interests. In partnership with the United Nations Office on Drugs and Crime (UNODC) and the Organisation for Economic Co-operation and development (OECD), the Office held a regional seminar in Batumi (Georgia) on preventing corruption for government officials from states in the South Caucasus and Eastern Europe. In co-operation with the OECD and the OSCE Presence in Albania, the OSCE also organized a seminar on preventing corruption for officials from Eastern Europe and Central Asia.

Together with the UNODC and the Eurasian Group on Combating Money Laundering and the Financing of Terrorism, the Office held a workshop for government officials from Central Asia, the South Caucasus, and Eastern Europe, which dealt with questions of cross-border co-operation in the fight against corruption and money laundering. To encourage transboundary co-operation, the OSCE hosted a workshop to exchange best practices to protect electricity networks from natural disasters. An OSCE Security Days event focused on enhancing security through water diplomacy, considering water as both a source of tension and a tool for confidence-building and co-operation. The OCEEA also gave presentations in several participating States on the security implications of climate change; an environmental assessment mission was dispatched to an arsenic mining site in the Tsana area in Georgia; and experts from Eastern Europe, the South Caucasus, and Central Asia received training in how to detect illegal trafficking of hazardous waste at borders.

Most of the OSCE's environmental activities were carried out in collaboration with the United Nations Development Programme (UNPD), the UNECE, the United Nations Environment Programme (UNEP), and the Regional Environmental Center (REC) under the Environment and Security Initiative (ENVSEC), and occasionally with the European Union and the Austrian Development Agency.

There was always general agreement that the OSCE should avoid overlap with the work of other organizations and institutions and that its task in the economic dimension consisted in promoting interaction between the private and public sectors.

The OSCE's role in the economic and environmental dimension nonetheless remained unclear in view of the many specialized international and often financially powerful organizations and institutions or "clubs" that exist. As a consequence, the OSCE's role in this dimension has so far been largely restricted to giving out appropriate political impulses and supporting occasional projects together with OSCE Missions. Other tasks within the economic and environmental dimension have been discussed, such as the monitoring of economic and social factors as a step towards a "comprehensive monitoring system" as an aspect of conflict prevention.

A number of representatives of participating States are in favour of introducing “economic confidence-building measures” or a kind of “code of conduct” for economic relations between OSCE States. Yet others prefer the idea of an early-warning system for critical social and economic situations in the OSCE area with a danger of developing into acute crises. This would have to apply to internal conflicts as well, which also threaten stability and security and require appropriate action.

Differing Conceptions

The general assertion that there are economic aspects to security is undisputed, and the inclusion of the economic dimension in the OSCE’s concept of comprehensive security has therefore never been openly and directly contested. The recommendation that the OSCE should give political impetus to economic co-operation has repeatedly been tabled at various OSCE meetings and is reflected in numerous documents. However, the economic aspects of security have never been developed into building blocks of a comprehensive security architecture in such a way as to result in an operational function for the OSCE.

The governments of OSCE participating States have different notions of the scope of the economic and environmental dimension of security and even of its meaning and purpose within the OSCE. The representatives of some countries have put the emphasis on legal and contractual certainty, the protection of economic property, and stable, reliable, and predictable economic policies; several have referred to early-warning systems. Others have named encouraging environmentally sustainable methods of production, and combating industrial espionage and international economic crime as tasks for the OSCE.

It is striking how little reference has been made to the economic and environmental security of people in their roles as citizens, employees, and consumers. The focus during the first decade after the end of the Cold War was on instabilities, crises, and threats to and risks for the economy, i.e. for national economies, enterprises, production, and markets. The goal has been to make the economy, economic policy, and entrepreneurial activity secure and resilient to crises. The trust of entrepreneurs was to be won through measures designed to strengthen economic security. It was in this context that measures to counter discrimination against migrant workers or social exclusion were mentioned. The Helsinki Final Act already contained a chapter entitled “Economic and social aspects of migrant labour”, and this was reiterated in the concluding documents of the Madrid and Vienna Follow-up Meetings (1983 and 1989, respectively).

In this context, it is important to mention one major absence: Trade unions were not mentioned in connection with the economic dimension or in

any other part of the Final Act.⁵ In subsequent CSCE documents where they are mentioned, they are largely praised for their role in the domestic sphere. Nonetheless, against the background of the banning of the dissident Polish trade union “Solidarity”, the following statements were included in the 1983 Concluding Document of Madrid in the section on “questions relating to security in Europe”: “The participating States will ensure the right of workers freely to establish and join trade unions, the right of trade unions freely to exercise their activities and other rights as laid down in relevant international instruments. [...] They will encourage, as appropriate, direct contacts and communication among such trade unions and their representatives.”⁶ The Document of the 1990 Bonn Conference on Economic Co-operation in Europe mentions the rights of workers to establish and join independent trade unions. The Document of the Copenhagen Meeting of the Conference on the Human Dimension of 29 June 1990 mentioned unions in three places, twice in relation to the freedom of association and the right to strike: “The right to form and [...] freely to join a trade union will be guaranteed. [...] Freedom of association for workers, including the freedom to strike, will be guaranteed”,⁷ and again when the participating States declare that they will encourage, facilitate, and support contacts and co-operation between free and independent trade unions.⁸ There is no mention of unions in the concluding document of the Vienna follow-up meeting (1989) and the Charter of Paris (1990), nor in any subsequent CSCE/OSCE documents. Also noteworthy is that the 1992 Helsinki Document explicitly mentions the economy, the environment, and science and technology, though “social issues” are missing here, as is the fact that, among all the international non-governmental organizations mentioned in the various CSCE documents in reference to some form of collaboration, not one reference is made to the International Labour Organization (ILO). Nonetheless the ILO was invited to take part in the Economic Forums. However, on the occasion that a representative of the ILO Secretariat did speak at an Economic Forum, their comments were so general as to indicate that the ILO has no major interest in the OSCE, given the latter’s minimal operational competencies.

5 For details, see: Tom Etty/Kurt P. Tudyka, No Room for the Trade Unions in the Economic and Human Dimensions of the OSCE? In: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1997*, Baden-Baden 1998, pp. 317-322.

6 Concluding Document of Madrid, Madrid, 6 September 1983, in: Bloed (ed.), cited above (Note 1), pp. 257-287, here: p. 262.

7 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, in Bloed (ed.), cited above (Note 1), pp. 439-465, here p. 446. Cf. also p. 447.

8 Cf. Ibid. P. 454.

What Role Today?

Today, the main concern in the second dimension is no longer just security *for* the economy, and certainly not security *from* the economy as a whole. Rather, dangers and risks arising from specific economic activities have increasingly attracted attention. These include the production, distribution, and export of dangerous substances; the transportation of hazardous waste; corruption; the illicit trade in and transport of reactor fuel, drugs, and weapons; trafficking in human beings; and money laundering. The environmental and social aspects of economic security have also been more strongly brought to the fore.

“Strengthening stability and security through co-operation on good governance” was the general theme of the 2016 OSCE Economic and Environmental Forum. The agenda included various issues related to good governance, transparency and accountability as prerequisites for economic growth and sustainable economic development, a favourable investment climate and competitiveness, and enhanced stability and security. Specific topics included combating corruption, international money-laundering, and the financing of terrorism. The Forum Meeting also evaluated aspects of good migration governance to support stable economic development in countries of origin, transit, and destination.

The Economic and Environmental Forum is considered an “OSCE meeting”, and hence, like all OSCE meetings, has no power to adopt decisions that create binding commitments for the participating States. Indeed, the only decisions that have ever been adopted in the Forum concern rules of procedure. The Forum takes place regularly every year, covering a range of changing, broadly formulated topics. Its effectiveness, however, has always been and remains questionable.

Today, the economic and environmental dimension of security also extends to economic factors and circumstances that play or could play a role in trouble spots and crisis areas, such as energy supply, water resources, natural resources, and environmental damage. This area of concern figures in the mandates of several field operations. The CEEA has organized several seminars on related topics, and relevant problems have been addressed extensively by the Economic and Environmental Forum (see table 1 on pages 270-271).

A number of high expectations have been linked with Germany’s holding of the OSCE Chairmanship in 2016. In this connection, the OSCE’s business conference on “Connectivity for Commerce and Investment”, opened by the Chairperson-in-Office, Foreign Minister Frank-Walter Steinmeier, in May 2016, can be seen as an effort to revive the dimension. The conference brought together close to 1,000 representatives of politics, business, and civil society from the 57 OSCE States and eleven partner countries. The neologism “connectivity” stands for “stronger and better physical and virtual links”

among the countries in the OSCE area and beyond, which translates into concrete infrastructure projects, transport corridors, trade agreements, and the linking of national digital infrastructure. An example of the enhancement of physical links is the Yuxinou freight railway line between Chongqing in China and Duisburg in Germany. The conference sought to develop common political visions in “times of serious political dislocation”.

The CEEA is located within the OSCE Secretariat and reports to the Secretary General. The activities in the economic and environmental dimension are carried out by 22 of the OSCE’s total of 550 employees and cost 2,141,000 of the annual budget of 141,107,600 euros, or roughly 1.5 per cent.⁹

The activities consist of term-limited and task-specific consulting activities on issues of concern and regular speaking appointments. The Forum and other meetings are attended by people from a wide range of professional fields and backgrounds, who largely present their papers dutifully in the form of communiqués. Discussion is rare, let alone real debate and criticism. The value of such activity remains uncertain. An evaluation has never been carried out.

The area covered by this dimension of the OSCE is a field of intense activity by numerous organizations and institutions – above all the many-tentacled EU. What is the OSCE’s unique selling point? It has no material or institutional advantages over the others. Who would miss the OSCE’s economic and environmental dimension? Who needs it?

The cessation of activity in this area would have no concrete effects, though it would be damaging for the image and internal constitution of the OSCE, doing irreparable harm to the OSCE as a whole. It is certainly justified to ask whether, in the course of long-running and repeated efforts at reform of the OSCE, the survival of the Organization’s economic and environmental dimension would be guaranteed.

*Table 1: Topics of OSCE Economic and Environmental Forums**

Year	Topic
1993	The transition process to democratic market economies
1994	The transition process to democratic market economies
1995	Regional, subregional and transborder co-operation, and the stimulation of trade, investment and development of infrastructure
1996	Economic aspects of security and the OSCE role

9 Figures from the 2016 Unified Budget. The inadequate resourcing of this dimension and the need to improve matters was already highlighted in the OSCE Yearbook seven years ago, cf. Kilian Strauss, Economic and Environmental Security Should Remain Key Components of the OSCE’s Core Mandate, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2008*, Baden-Baden 2009, pp. 311-319.

1997	Market economy and the rule of law
1998	Security aspects of energy developments in the OSCE area
1999	Security aspects in the field of the environment
2000	Economic aspects of post-conflict rehabilitation: the challenges of transformation
2001	Transparency and good governance in economic matters
2002	Co-operation for the sustainable use and the protection of quality of water in the context of the OSCE
2003	Trafficking in human beings, drugs, small arms and light weapons: National and international economic impact
2004	New challenges for building up institutional and human capacity for economic development and co-operation
2005	Demographic trends, migration and integrating persons belonging to national minorities: Ensuring security and sustainable development in the OSCE area
2006	Transportation in the OSCE area: Secure transportation networks and transport development to enhance regional economic co-operation and stability
2007	Key challenges to ensure environmental security and sustainable development in the OSCE area: Land degradation, soil contamination and water management
2008	Maritime and inland waterways co-operation in the OSCE area: Increasing security and protecting the environment
2009	Migration management and its linkages with economic, social and environmental policies to the benefit of stability and security in the OSCE region
2010	Promoting good governance at border crossings, improving the security of land transportation and facilitating international transport by road and rail in the OSCE region
2011	Promotion of common actions and co-operation in the OSCE area in the fields of development of sustainable energy and transport
2012	Promoting security and stability through good governance
2013	Increasing stability and security: Improving the environmental footprint of energy-related activities in the OSCE region
2014	Responding to environmental challenges with a view to promoting co-operation and security in the OSCE area
2015	Water governance in the OSCE area – increasing security and stability through co-operation
2016	Strengthening stability and security through co-operation on good governance

* Economic Forum up to and including 2006, Economic and Environmental Forum thereafter

III.

Organizational Aspects

OSCE Institutions and Structures

The OSCE and Its Legal Status: Revisiting the Myth of Sisyphus

*International organizations are puzzling creatures, and have long created serious analytical problems for international lawyers.*¹

Introduction

The above assertion could undoubtedly apply to the issue of the legal status of the OSCE, which has been “an ordeal for the Organization over the years”² and has given rise to a never-ending internal political discussion and countless food-for-thought papers and proposals.

The OSCE is the world largest regional security organization. The Organization has been defined as a regional arrangement in the sense of Chapter VIII of the United Nations Charter,³ enabled “to play a cardinal role in meeting the challenges of the twenty-first century”⁴ and recognized “as a primary organization for the peaceful settlement of disputes within its region and as a key instrument for early warning, conflict prevention, crisis management and post-conflict rehabilitation”.⁵ Moreover, in accordance with the Platform for Co-operative Security, which was also adopted at the 1999 Istanbul Summit Meeting, it was characterized as a “forum for subregional co-operation”.⁶

Note: The views expressed in this article are those of the authors alone and do not necessarily reflect the official position of the OSCE and its participating States.

- 1 Jan Klabbers, *Advanced Introduction to the Law of International Organizations*, Cheltenham 2015, p. 7.
- 2 Kurt P. Tudyka, The Greek OSCE Chairmanship 2009, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2010*, Baden-Baden 2011, pp. 327-336, here: p. 334.
- 3 Cf. Helsinki Summit Declaration, in: CSCE Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, in: Arie Bloed (ed.), *The Conference on Security and Co-Operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 701-777, here: pp. 701-710, para. 25, also available at: <http://www.osce.org/mc/39530>.
- 4 Budapest Summit Declaration. Towards a Genuine Partnership in a New Era, in: Budapest Document 1994, Budapest, 6 December 1994, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe: Analysis and Basic Documents, 1993-1995*, The Hague 1997, pp. 145-189, here: pp. 145-149, para. 3, also available at: <http://www.osce.org/mc/39554>.
- 5 Charter for European Security, Istanbul, November 1999, in: Organization for Security and Co-operation in Europe, Istanbul Summit 1999, *Istanbul Document 1999*, Istanbul 1999, January 2000/Corr., pp. 1-45, here: pp. 2-3, part II, para. 7, at: <http://www.osce.org/node/39569>.
- 6 Ibid., p. 4, part III, para. 13. Cf. also *Operational Document – the Platform for Co-operative Security*, in: ibid., pp. 43-45. For a comment, cf. Sandra Sacchetti, The OSCE’s Platform for Co-operative Security: An opportunity for multilateral coherence, in: *Security and Human Rights* 1/2014, pp. 119-129. The UN and the CSCE defined a “Framework for Cooperation and Coordination” in May 1993 (United Nations General Assembly,

The OSCE possesses the essential criteria to enable it to be categorized as an intergovernmental organization. It has a stable organizational structure with permanent organs acting on behalf of the Organization, which doctrine regards as a clear manifestation by states of their intention to create an organization. This institutionalization of the OSCE, its widespread operational activities, its participation in international relations, and its co-operation with other international actors speak in favour of its being considered as an international organization.⁷

However, while the OSCE has managed to assert itself as an active and dynamic player on the international stage, it does not enjoy the attributes of an international organization. Its *sui generis* status, the result of a unique legal and political process, leaves it in an unclear position under international law, for three main reasons.

First of all, the OSCE does not meet the first criteria of an international organization defined by the International Law Commission (ILC) in 2011,⁸ as it has not been “established by a treaty or other instrument governed by international law”. Originally set up as a conference, the OSCE is based on a comprehensive concept of security that derives from commitments that bind the participating States politically, but not legally.⁹ The decision on

A/48/185, annexes I, II, 1 June 1993) and, on 13 October 1993, the UN General Assembly unanimously adopted a resolution inviting the CSCE to attend the sessions and participate in its work as an observer (United Nations General Assembly, A/RES/48/5, 13 October 1993).

7 Cf. Ioannis Stribis, The legal status of the OSCE: A view from the other side of the mirror, in: *Legal Services Newsletter* 8/2011, p. 4.

8 “‘International organization’ means an organization established by a treaty or other instrument governed by international law and possessing its own international legal personality”, United Nations, *Draft articles on the responsibility of international organizations*, adopted by the International Law Commission at its sixty-third session, in 2011, and submitted to the General Assembly as a part of the Commission’s report covering the work of that session (A/66/10, para. 87), Article 2(a). The case of the OSCE has inspired the ILC, which notes: “Most international organizations are established by treaties. [...] However, forms of international cooperation are sometimes established without a treaty. In certain cases, for instance with regard to the Nordic Council, a treaty was subsequently concluded. In other cases, although an implicit agreement may be held to exist, member States insisted that there was no treaty concluded to that effect, as for example in respect of the Organization for Security and Co-operation in Europe (OSCE)”, United Nations, *Report of the International Law Commission, Sixty-first session (4 May-5 June and 6 July-7 August 2009)*, General Assembly Official Records, Sixty-fourth Session, Supplement No. 10, 2009 (A/64/10), pp. 44-45.

9 Many scholars have emphasized that the concluding paragraphs of the Helsinki Final Act request the government of Finland (which was the host government) to transmit to the Secretary-General of the United Nations the text of the Act, “which is *not* eligible for registration under Article 102 of the Charter of the United Nations”, Final Act of Helsinki, Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in: Bloed (ed.), cited above (Note 3), pp. 141-217, here: p. 210 (emphasis added). Article 102(1) of the UN Charter provides that “every treaty and every international agreement entered into by any Member of the United Nations [...] shall as soon as possible be registered with the Secretariat and published by it.” *Charter of the United Nations*, at: <http://www.un.org/en/charter-united-nations>. This means that the Helsinki Accords do not constitute a treaty or an international agreement which could be invoked be-

“Strengthening the CSCE” adopted at the Budapest Summit in 1994, which transformed the CSCE into an organization, did not modify the essential nature of the OSCE: “The change in name from CSCE to OSCE alters neither the character of our CSCE commitments nor the status of the CSCE and its institutions. In its organizational development the CSCE will remain flexible and dynamic.”¹⁰ Consequently, the OSCE is not grounded on “what may be called a constitution”, which Chittharanjan Amerasinghe sees as a precondition to act as an international organization.¹¹

Second, since the OSCE was not established by a constituent treaty, which would have contained general provisions about the Organization’s legal capacity, the OSCE does not possess “its own international legal personality”¹² distinct from that of its participating States, which is the second of the ILC’s criteria. Most constitutive documents of international organizations either provide the organization with the legal capacity necessary to exercise its functions,¹³ or with legal personality and the capacity to enter into contracts to acquire and dispose of immovable and movable property, and to institute legal proceedings, or both.¹⁴ For some organizations, such provisions

fore any organ of the United Nations, including the International Court of Justice. The 1990 Charter of Paris also foresees no registration.

- 10 Budapest Decisions, section I, Strengthening the CSCE, in *Budapest Document 1994*, cited above (Note 4), pp. 153-156, para. 29. Cf. also Miriam Sapiro, Changing the CSCE into the OSCE: Legal Aspects of a Political Transformation, in: *The American Journal of International Law* 3/1995, pp. 631-637. “An attentive reading of the Budapest Summit Document suggests that they [the participating States] were purposely trying to avoid associating the renaming of the CSCE with any express recognition of its status as an international organization.” Sonya Brander/María Martín Estébanez, The OSCE matures: Time for legal status, in: *Helsinki Monitor* 1/2007, pp. 2-5, here: p. 3.
- 11 Cf. Chittharanjan F. Amerasinghe, *Principles of the Institutional Law of International Organizations*, 2nd revised edition, Cambridge 2005, p. 10.
- 12 The legal capacity of an international organization is defined as its capacity to assume legal obligations and to have legal rights in national legal orders and at the international level. Concretely, it grounds its capacity to enter into contracts (e.g. for procurement) or agreements with States or other international organizations, to acquire and dispose of movable and immovable property, and to institute and participate in legal proceedings.
- 13 See, for instance, Article 104 of the UN Charter (“The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes”) and Article XV (A) of the statute of the International Atomic Energy Agency (IAEA) (“The Agency shall enjoy in the territory of each member such legal capacity and such privileges and immunities as are necessary for the exercise of its functions”), at: <https://www.iaea.org/about/statute>.
- 14 See, for instance, Articles 210 (“The Community shall have legal personality”) and 211 (“The Community shall in each of the Member States possess the most extensive legal capacity accorded to legal persons under their respective municipal law; it may, in particular, acquire or transfer movable and immovable property and may sue and be sued in its own name”) of the Treaty establishing the European Economic Community, at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Axy0023>, and Article 39 of the Constitution of the International Labour Organization (ILO) (“The International Labour Organization shall possess full juridical personality and in particular the capacity: (a) to contract; (b) to acquire and dispose of immovable and movable property; (c) to institute legal proceedings”), at: http://www.ilo.org/dyn/normlex/en/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453907:NO#A39.

have been included in separate treaties.¹⁵ Therefore, when it comes to the OSCE, the lawyer might keep Jan Klabbbers' forthright assertion in mind: "Entities lacking personality cannot be held responsible, and this suggests rather strongly that entities devoid of personality are not proper international organizations at all."¹⁶

Finally, since the OSCE has no legal instrument such as a charter or a convention providing it with legal capacity, it also misses privileges and immunities, inviolability, exemption from taxation, and a number of other key elements essential to the smooth operation of an international organization. Unlike the OSCE, the United Nations Organization (UNO), for instance, is ensured that its staff and experts as well as representatives of its member states enjoy privileges and immunities throughout the territories of its member states.¹⁷ As for NATO, the Ottawa Agreement defines the immunities and privileges to be granted to the Organization, to the international staff (not full diplomatic immunity) and to the national missions established to the Alliance (full diplomatic immunity).¹⁸

Therefore, from the legal point of view, "the question as to whether the OSCE is indeed an international organization in the sense of an intergovernmental organization enjoying international legal personality has to be answered in the negative".¹⁹

Of course it can be argued that the OSCE enjoys de facto international legal personality, although this is not currently based in law. In its Advisory Opinion of 11 April 1949 on the "Reparation for injuries suffered in the ser-

15 See, for instance, the General Agreement on Privileges and Immunities of the Council of Europe, and notably its Article 1 ("The Council of Europe shall possess juridical personality. It shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings. In these matters the Secretary General shall act on behalf of the Council of Europe"), at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680063729>, and the Agreement on the status of the North Atlantic Treaty Organization, National Representatives and International Staff signed in Ottawa on 20 September 1951, which defines NATO as a legal entity under international law ("The Organization shall possess juridical personality; it shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings", Article IV; at: http://www.nato.int/cps/fr/natohq/official_texts_17248.htm?selectedLocale=en).

16 Klabbbers, cited above (Note 1), p. 18.

17 Article 105(2) of the Charter of the UN provides that "Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization." *Charter of the United Nations*, cited above (Note 9). This basic principle is supplemented by the 1946 Convention on the Privileges and Immunities of the United Nations.

18 See Agreement on the status of the North Atlantic Treaty Organization, National Representatives and International Staff signed in Ottawa, 20 September 1951, Articles XII-XVI; see also NATO Legal Deskbook, 2nd edition, 2010, p. 73, available at: <https://publicintelligence.net/nato-legal-deskbook>.

19 Helmut Tichy/Ulrike Köhler, Legal Personality or not – The Recent Attempts to Improve the Status of the OSCE, in: Isabelle Buffard et al. (eds), *International Law Between Universalism and Fragmentation*, Festschrift in honour of Gerhard Hafner, Leiden 2008, pp. 455-478, here: p. 459.

vice of the United Nations”, the International Court of Justice (ICJ) came to the conclusion that the UNO was an international person, a subject of international law, and capable of possessing international rights and duties.²⁰ The conclusions of the ICJ “can easily be assimilated word-for-word to the situation of the OSCE”.²¹ The fact that the OSCE operates in its relations with states, other international organizations, and civil society as if it enjoys the same standing as the treaty-based international organizations, and that the OSCE is treated as if it is equal to the treaty-based international organizations that are recognized as possessing international legal personality, supports the above reasoning by the Court, in terms equally applicable to the OSCE. So one can conclude with Marco Odello that the OSCE “matches the main criteria required by general international law related to international organisations”.²²

Having said that, “the OSCE has in effect come of age without a ‘legal’ birthright”.²³ It is still not, in 2016, a fully fledged international organization, unlike the United Nations, the Council of Europe, or NATO. It has “participating States” and not member states – a distinction that is more than just a matter of words. All in all, the Organization suffers from the vulnerability that a lack of adequate recognition, legal status, and enjoyment of privileges and immunities entails.

The scholarly debate over the legal status of the OSCE has been ongoing for decades.²⁴ Henry Schermers and Niels Blokker use the OSCE as a “problematic example”.²⁵ Like other non-legally identified bodies such as the Asia-Pacific Economic Cooperation (APEC), the Arctic Council, or the Wassenaar Arrangement, it is, for Klabbers, the symbol of “a discernible recent tendency [...] to remain nebulous about intentions when creating international institutions. [...] with all of them it remains unclear whether they indeed have

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- 20 Reparation for injuries suffered in the service of the United Nations, Advisory Opinion of 11 April 1949, *I.C.J. Reports 1949*, pp. 178-179.
 - 21 Lisa Tabassi, Update on the Operational Consequences of the Lack of a Clear Legal Status of the OSCE, Open-Ended Informal Working Group on Strengthening the Legal Framework of the OSCE, 29 April 2016, attached to SEC.GAL/67/16, 6 May 2016, para. 2.2, p. 3.
 - 22 Marco Odello, The Developing Legal Status of the Organisation for Security and Co-operation in Europe, in: *Anuario de Derecho Internacional*, 2006, pp. 351-393, here: p. 393. Cf. also Christine Bertrand, La nature juridique de l'Organisation pour la sécurité et la coopération en Europe (OSCE) [The Legal Nature of the Organization for Security and Co-operation in Europe (OSCE)], in: *Revue Générale de Droit International Public* 2/1998, pp. 365-406, here: pp. 370f.
 - 23 Brander/Martín Estébanez, cited above (Note 10), p. 4.
 - 24 It has even been the topic of a doctoral thesis: Hélène Cadet, *Le statut juridique de l'Organisation pour la sécurité et la coopération en Europe* [The Legal Status of the Organization for Security and Co-operation in Europe], doctoral thesis submitted for the degree of doctor in international public law, University of Paris 1 – Panthéon-Sorbonne, 2012.
 - 25 Henry G. Schermers/Niels M. Blokker, *International Institutional Law*, 4th revised edition, Leiden 2003, p. 991.

to be regarded as full-blown organizations rather than, say, framework for occasional diplomacy”.²⁶ Peter Kooijmans is even more outspoken:

To the community of international lawyers the OSCE is a little like a marshmallow: it may look enticing, but it is difficult to give it a good bite. For what can a lawyer do with an organization which is not treaty-based and therefore has no international personality.²⁷

In the Greek mythology, the gods had condemned Sisyphus, founder and king of Corinth, after he had challenged Death, to ceaselessly roll a huge rock to the top of a mountain, whence the stone would fall back of its own weight. Like Sisyphus, the OSCE Chairmanships, over the last 25 years, one after the other, have been tirelessly “rolling the stone” of the Organization’s legal status, supported by the OSCE Secretariat and its Legal Services unit, only to see it rolling down again.

Let us summarize the main steps of a discussion that can be traced back to the origins of the OSCE. We will then focus on the operational consequences of the OSCE’s lack of a clear legal status, which affects the Organization’s daily life, especially in the field. We will also try to analyse the main antagonistic political positions around the OSCE table. Finally, we will recall the five options that are currently being debated by the Informal Working Group on Strengthening the Legal Framework of the OSCE, none of them, unfortunately, raising hope of a breakthrough in the short term.

From Rome to Hamburg: 25 Years of Unsolved Debate

As Sonya Brander and María Martín Estébanez rightly recall, when states from both sides of the Iron Curtain gave birth to the Conference on Security and Co-operation in Europe (CSCE) 41 years ago, it was impossible for them to foresee its future development. The Western states wanted to avoid any implicit recognition of the territorial divisions in Europe that had followed World War II. For Eastern states, it was a matter of avoiding the assumption of legal obligations arising from the so-called “third basket”.²⁸ “We must therefore assume that the CSCE participating States had no desire to make the CSCE a subject of international law”, concludes Marcus Wenig.²⁹

26 Jan Klabbers, *An Introduction to International Institutional Law*, Cambridge 2002, pp. 11-12.

27 Peter Kooijmans, The Code and International Law, in: Gert De Nooy (ed.), *Cooperative Security, the OSCE, and its Code of Conduct*, The Hague 1996, pp. 33-40, here: p. 33.

28 Cf. Brander/Martín Estébanez, cited above (Note 10), p. 2.

29 Marcus Wenig, The Status of the OSCE under International Law – Current Status and Outlook, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook* 1997, Baden-Baden 1998, pp. 367-383, here: p. 372.

However, several members of the European Economic Community, led by France, had proposed during the negotiations leading to the 1992 Helsinki Summit that CSCE States conclude a treaty establishing the CSCE as an international organization with juridical personality. The Helsinki Summit indeed decided to “consider the relevance of an agreement granting an internationally recognized status” to the CSCE’s institutional arrangements.³⁰ At its inaugural session on 5 July 1992, the Parliamentary Assembly of the CSCE had previously expressed the wish “to transform the CSCE into a regional security organization [...] and to give it a legal base”.³¹ In implementation of the Helsinki Summit, on 15 December 1992, the CSCE Council instructed the Committee of Senior Officials (CSO) to establish an ad hoc Group of Legal and Other Experts, under the chairmanship of Ambassador Hans Corell (Sweden), to report through the Committee with the aim of presenting a draft decision for adoption at the Rome Council Meeting in 1993.

At this time, the CSCE had three institutions, nine missions, and fewer than fifty mission members. The states hosting CSCE institutions, namely Austria, the Czech Republic, and Poland, had within their territories already conferred, or would confer imminently, legal capacity on CSCE entities and privileges and immunities on them and their personnel. Although this system of ad hoc arrangements had worked well, given the CSCE’s expanding operations, the time seemed ripe to look for ways of enhancing the future effectiveness of CSCE institutions and activities.

The Group of Experts submitted its report on 17 November 1993.³² It also decided to forward through the CSO a draft decision for consideration by the CSCE Council in Rome.

The 1993 Rome Decision: The Unilateral Option and Its Shortfalls

At the Fourth Meeting of the Council of the CSCE in Rome, held on 30 November and 1 December 1993, the Ministers reaffirmed the importance of enhancing the ability of the institutions to better accomplish their functions, while preserving the flexibility and openness of the CSCE process. They agreed that, in order to help achieve a firmer basis for security and co-operation among all CSCE participating States, the CSCE would benefit from clearer administrative structures and a well-defined operational framework. In that view, the choice laid between two different methods of regulating the status of the CSCE institutional arrangements: either the elaboration of a binding, legal instrument to be ratified by the participating States or a recommendation by the CSCE Council to the participating States to enact the necessary national measures on a unilateral basis.

30 Helsinki Decisions, section I, Strengthening CSCE Institutions and Structures, in: *CSCE Helsinki Document 1992*, cited above (Note 3), pp. 711-715, para. 25.

31 *Budapest Declaration of the CSCE Parliamentary Assembly*, 5 July 1992, Chapter I, Security Questions, para. 10, at: <http://www.osce.org/pa/40732>.

32 Circulated as *CSCE Communication No. 311*, Prague, Rome, 27 November 1993.

The first possibility, proposed by the European Community, was a treaty. The ad hoc Group of Legal Experts had already considered the relevance of an agreement laying down a generally applicable legal framework for the activities of the CSCE's institutional arrangements.³³ A treaty, however, posed a dilemma. To be truly effective, it would require ratification by all participating States, which was unlikely to happen. On the other hand, a treaty that could have entered into force without all CSCE States being party to it would have been potentially divisive and difficult to implement. While a treaty might have been the preferred route for the CSCE at its formative stage, ultimately it did not appear to be a reasonable option: "Under present circumstances, the conclusion of a binding agreement would not, on its own, be a feasible solution."³⁴

The Group of Experts had also considered a solution involving both a political document and a treaty, i.e. a legally binding document on the issue at hand under the chapeau of a political declaration to be issued in the form of a decision by the CSCE Council.³⁵ The political commitment would have granted legal personality and privileges and immunities to CSCE institutions, to their officers, and to representatives of the participating States.³⁶ This alternative posed the same difficulties as a standalone treaty.

The group also considered "implementation solely by means of unilateral measures"³⁷ as admissible, as long as this choice, in opposition to the adoption of a legal instrument, was a matter of method, and not of content: "This solution would not prejudice the tradition of political commitments as part of a flexible CSCE process".³⁸ This last approach, which was supported by the United States, ultimately prevailed. The Decision on Legal Capacity and Privileges and Immunities adopted in Rome in December 1993³⁹ provided that states should, subject to their constitutional, legislative, and related requirements, confer on CSCE institutions (namely the CSCE Secretariat, the Office for Democratic Institutions and Human Rights [ODIHR], and any other CSCE institution determined by the CSCE Council) the legal capacity necessary for them to perform their functions. This would include the capacity to contract, to acquire and dispose of movable and immovable property, and to institute and participate in legal proceedings. The Rome decision further committed states to seek to provide CSCE institutions with the same

33 Cf. the draft "Agreement on legal personality for the CSCE institutions and privileges and immunities" attached to *CSCE Communication No. 254*, Prague, 21 September 1993, pp. 10-17.

34 CSCE Ad Hoc Group of Legal and Other Experts, Chairman's Working Paper No. 1, 17 September 1993, attached to *ibid.*, p. 3.

35 A draft "Decision on a legal basis for the CSCE institutions and on privileges and immunities for CSCE institutions, its officers and the representatives of the participating States" is attached to *ibid.*, pp. 8-9.

36 CSCE Ad Hoc Group of Legal and Other Experts, cited above (Note 34), p. 4.

37 *Ibid.*

38 *Ibid.*, p. 5.

39 Cf. *Decision on Legal Capacity and Privileges and Immunities*, CSCE/4-C/Dec.2 and its Annex 1, 1 December 1993.

immunity from legal process as is enjoyed by foreign states (for instance, inviolability of archives and exemption from customs and duties, inviolability of premises, ability to hold and transfer funds without financial restrictions, and exemption from all direct taxes). With respect to CSCE personnel, the participating States agreed to seek to confer certain immunities on representatives to the CSCE, CSCE officials, and members of CSCE Missions. These included immunity from legal process for official acts, exemption from immigration and alien registration requirements to the same extent as diplomatic agents, and the same privileges with regard to exchange facilities as are accorded to diplomatic agents. Moreover, members of CSCE Missions would enjoy personal inviolability while on official travel.

Nevertheless, the Rome decision, including the negotiations that led to it, made it clear that the CSCE and its institutions did not have, and were not being endowed with, international legal personality. The CSCE was not envisaged as a unitary actor: Neither the 1993 Rome Council decision nor national legislation foresaw or granted legal capacity to the CSCE as such, but only to its institutions, which would continue to enjoy legal status within participating States to the extent consistent with domestic law. Since the change in name from “Conference” to “Organization” at the Budapest Summit might have sent a different signal, it was important to clarify that the legal status of the CSCE and its institutions, and the political character of CSCE commitments, would remain unchanged.

Moreover, the Rome decision referred only to the Secretariat and ODIHR. Other CSCE institutions (the Office of the High Commissioner on National Minorities [HCNM] and the Office of the Representative on Freedom of the Media [RFOM]) would be covered as “determined by the CSCE Council”. The OSCE Missions were also not covered: Only mission members were granted privileges and immunities. The question of income tax on earnings received from the OSCE was not addressed in the Rome decision.

The Rome decision left it up to each participating State to determine the best means to meet its commitment. Concretely, over the years, only a few participating States (roughly a quarter) have implemented the 1993 Rome decision, and they did not take a uniform approach.⁴⁰ This has left the CSCE/OSCE with a fragmented and piecemeal situation, as most of the participating States find it legally impossible to grant privileges and immunities unilaterally.

All in all, the unilateral approach and the pre-eminence of the “constitutional, legislative and related requirements” of the participating States

40 The Food-for-Thought Paper *The OSCE's Lack of an Agreed Legal Status – Challenges in Crisis Situations*, issued by the OSCE Parliamentary Assembly and the Secretariat's Legal Services Unit in April 2015, provides a list of the countries that have passed parliamentary legislation or executive measures for the implementation of the 1993 Rome Council decision, and the references of the corresponding legislation, in: OSCE Parliamentary Assembly, *Helsinki +40 Project Working Papers, Compilation of experts' contributions and documents*, July 2015, pp. 61-62.

amounted to far less than the legal capacity granted under an international agreement (either multilaterally in the form of a convention or bilaterally under a headquarters agreement). The shortfalls of the Rome decision were quite pertinently summed up by the Russian Federation:

We regard the 1993 decisions concerning privileges and immunities [...] not as a solution to the problems but rather as political promises made by States to confer on the OSCE the international legal attributes required for it to operate effectively. As long as this is not done, the OSCE will remain a collection of political consultation processes between participating States, which whilst making it possible to achieve practical *modi vivendi* in each case, will clearly take place outside the framework of international law.⁴¹

*The 1999 Istanbul Summit and the Charter for European Security:
Unilateralism no Longer an Option*

The Russian Federation, as well as France⁴² and Italy, tried to re-open the agenda in 1998-1999 in the framework of the Charter for European Security.⁴³ Italy managed to insert a provision into the Istanbul Summit Declaration, noting “that a large number of participating States ha[d] not been able to implement the 1993 Rome Ministerial Council decision on legal capacity of the OSCE institutions”, calling for “a determined effort” and tasking “the Permanent Council, through an informal open-ended working group to draw up a report to the next Ministerial Council Meeting, including recommendations on how to improve the situation”.⁴⁴

At the working group, there was little support for a revision of the 1993 Rome decision without either a convention or a model agreement. Adopting a new ministerial decision to supersede the Rome Council decision and cover the issues not dealt with in it also presented some disadvantages; the risk of insufficient and non-harmonized implementation of the new decision would have been the same as for the Rome decision. Therefore, in 2000, the Chairperson-in-Office concluded that “the ‘unilateral action’ option, even with the

41 *Talking points on the statement by the representative of the Russian Federation at an informal open-ended working group on the legal capacity, privileges and immunities of OSCE Institutions*, PC.DEL/496/00, 22 September 2000.

42 At the Istanbul Summit, President Jacques Chirac said: “[...] to enable it [the OSCE] to carry out all of its tasks more effectively, I propose that it be accorded legal personality”, SUM.DEL/37/99, 18 November 1999.

43 Cf. Permanent Mission of the Russian Federation to the OSCE, *Statement on the strengthening of the OSCE at the meeting of the Security Model Committee*, 29 May 1998, PC.SMC/38/98, 29 May 1998; Permanent Representation of France and Permanent Representation of Italy, *Draft paragraph to be included in the Charter for European Security*, PC.SMC/168/99, 29 October 1999.

44 Istanbul Summit Declaration, in: *Istanbul Document 1999*, cited above (Note 5), pp. 46-54, here: p. 52, para. 34.

replacement of the Rome Council decision, could hardly be regarded as satisfactory".⁴⁵

The 2000 Austrian Chairmanship: Broadening the Scope of the Debate

In a spirit of pragmatism and in an attempt to overcome the impasse, the Austrian Chairmanship left the format open and looked at some compromise options, which were, in the words of Victor-Yves Ghebali, "as ingenious as they are complicated".⁴⁶

It was suggested that the participating States be bound by the same political obligations as those in the 1993 Rome Ministerial decision, with some extensions, and by a convention signed and ratified by those participating States wishing to do so, whose entry into force, however, would depend on the implementation of the political obligations by all participating States.⁴⁷ For the purpose of this alternative, amendments to the 1993 Rome Ministerial decision were proposed, as well as a short convention that contained the substance of both the Rome decision and the 1961 Vienna Convention on Diplomatic Relations.⁴⁸

These variants enjoyed the support of a substantial number of delegations, but could not obtain consensus either. The Russian Federation stressed that, without previous recognition of the OSCE's legal personality, they would make no sense, and that the only way for Russia to grant privileges and immunities to an international organization would be through a treaty. Although supported by the vast majority of the participating States, the multi-lateral option was rejected by the United States.

After Austria, the Romanian Chairmanship set up a new working group, whose work was again unsuccessful.⁴⁹ In 2002, the Porto Ministerial Council

45 The OSCE's Legal Capacity and Privileges and Immunities, Non-paper by the Chairperson-in-Office, 6 June 2000, CIO.GAL/42/00, 23 June 2000, in: Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 383, Report on OSCE Legal Capacity and on Privileges and Immunities to the Ministerial Council*, PC.DEC/383, 26 November 2000, Attachment 2 to Annex, p. 2, para. 9, at: <http://www.osce.org/pc/24379>.

46 Victor-Yves Ghebali, *Le rôle de l'OSCE en Eurasie, du sommet de Lisbonne au Conseil ministériel de Maastricht (1996-2003)* [The Role of the OSCE in Eurasia: From the Lisbon Summit to the Maastricht Ministerial Council], Brussels 2014, p. 58 (author's translation).

47 Cf. OSCE Legal Capacity and Privileges and Immunities, Report of the Permanent Council to the Ministerial Council, PC.DEC/383, 26 November 2000, Annex, p. 2, para. 6, in: PC.DEC/383, cited above (Note 45).

48 Cf. CIO.GAL/114/00, 1 November 2000, annex 1, in: PC.DEC/383, cited above (Note 45), Attachment 5 to Annex; and CIO.GAL/129/00, 22 November 2000, in: *ibid.*, Attachment 7 to Annex.

49 Cf. Decision No. 3, *Fostering the Role of the OSCE as a Forum for Political Dialogue*, MC(9).DEC/3, para. 2, in: Organization for Security and Co-operation in Europe, *Ninth Meeting of the Ministerial Council, 3 and 4 December 2001*, MC.DOC/2/01, Bucharest, 4 December 2001, pp. 25-27, here: p. 26, at: <http://www.osce.org/mc/40515>. Cf. also Letter from the Chairman of the Permanent Council Concerning the OSCE Legal Capacity and Privileges and Immunities, in: *ibid.*, p. 73.

failed to adopt a decision on the legal capacity of the OSCE tabled by the Portuguese Chairmanship.⁵⁰

The 2005 Panel of Eminent Persons: Refuelling the Discussion

The issue of the consolidation of the OSCE's legal status was given new impetus when the Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE – which had been established by a Ministerial decision in Sofia in 2004 – presented the Slovenian Chairperson-in-Office with a 32-page report entitled “Common Purpose: Towards a More Effective OSCE” in June 2005. The seven-member panel argued that the OSCE's development from a conference to a fully fledged international organization had to be completed, finally making “participating States” into “member States”: “The OSCE's standing as an international organisation is handicapped by its lack of a legal personality”.⁵¹ In that regard, the Panel recommended that the participating States “devise a concise Statute or Charter of the OSCE containing its basic goals, principles and commitments, as well as the structure of its main decision-making bodies”.⁵² It also suggested that they “agree on a convention recognising the OSCE's legal capacity and granting privileges and immunities to the OSCE and its officials [... which] would not diminish in any way the politically binding character of OSCE commitments”.⁵³

Following this recommendation, Decision No. 17/05 on “Strengthening the Effectiveness of the OSCE”, adopted in Ljubljana on 6 December 2005, tasked the Permanent Council with continuing this work. This led to the establishment of the Working Group on Strengthening the Effectiveness of the OSCE, led by Ambassador Axel Berg, Head of the German Delegation to the OSCE, which was tasked with reviewing the implications of the lack of international legal status and uniform privileges and immunities of the OSCE at a technical level, and making recommendations for solutions to address these problems effectively.

In May 2006, Ambassador Berg issued the terms of reference for a small group of legal experts, which would be chaired by Ambassador Helmut Tichy, legal adviser of the Foreign Ministry of Austria. The legal experts presented a report to the Belgian Chairperson-in-Office in September 2006, which led to the adoption of the Brussels Ministerial decision on the legal

50 Cf. MC.DD/5/02, 6 November 2002. Cf. also Porto Ministerial Declaration, Responding to Change, para. 12, in: Organization for Security and Co-operation in Europe, *Tenth Meeting of the Ministerial Council, 6 and 7 December 2002*, MC.DOC/1/02, Porto, 7 December 2002, pp. 3-5, here: p.4, at: <http://www.osce.org/mc/40521>.

51 *Common Purpose: Towards a More Effective OSCE, Final Report and Recommendations of the Panel of Eminent Persons On Strengthening the Effectiveness of the OSCE*, 27 June 2005, paras 28 and 29, reprinted in: Institute for Peace Research and Security Policy at the University of Hamburg (ed.), *OSCE Yearbook 2005*, Baden-Baden 2006, pp. 359-379, here: p. 369.

52 Ibid., para. 30.

53 Ibid.

status and privileges and immunities of the OSCE.⁵⁴ This decision stated that work on a draft convention would be continued on the basis of the text drafted in 2000. It also established an informal working group of experts under the Permanent Council, whose task would be to draw up a draft convention that would be submitted through the Permanent Council for adoption by the Ministerial Council, “if possible, in 2007”.

The 2007 Draft Convention: Missing the Target by a Hair’s Breadth

The new Spanish Chairmanship invited Ambassador Ida van Veldhuizen-Rothenbücher, Head of the Delegation of the Netherlands to the OSCE, to chair the informal Working Group. On 11 and 12 October 2007, after lengthy and difficult negotiations, the Group reached consensus on the text of a Draft Convention (DC) comprising 25 articles at its final meeting,⁵⁵ although three footnotes were attached⁵⁶ at the request of certain participating States, making the conclusion of the 2007 DC conditional on the existence of a “Charter of the OSCE”. Therefore, no consensus on the final text prepared by the Spanish Chairmanship was reached at the meeting of the OSCE Fifteenth Ministerial Council in Madrid in 2007. However, the OSCE Chairperson-in-Office, Spanish Foreign Minister Miguel Ángel Moratinos, annexed the draft text of the Working Group to his closing statement “for practical purposes”.

This setback did not, however, dampen support for the text of the DC. In Helsinki, on 2 June 2008, the “Quintet” of OSCE Chairmanships expressed support for granting legal personality to the Organization. At an informal round-table meeting on the DC organized by the Finnish Chairmanship at the Vienna Hofburg on 22 October 2008, reference was made to a “universal agreement between delegations on the need to assign the OSCE with legal personality”.⁵⁷ In the Finnish capital city, at the Sixteenth Meeting of the OSCE Ministerial Council, Ministerial Decision No. 4/08 tasked the incoming Chairperson-in-Office to pursue a dialogue on strengthening the legal framework of the OSCE and to report to the meeting of the Ministerial Council in Athens in December 2009. The Personal Representative of the Greek Chairperson-in-Office for the Strengthening of the Legal Framework of the OSCE, Dr Zinovia Stavridi, again presented a draft decision for adop-

54 Cf. Decision No. 16/06, Legal Status and Privileges and Immunities of the OSCE, MC.DEC/16/06 of 5 December 2006, in: Organization for Security and Co-operation in Europe, *Fourteenth Meeting of the Ministerial Council, 4 and 5 December 2006*, Brussels, 5 December 2006, pp. 50-51, at: <http://www.osce.org/mc/25065>.

55 Draft Convention on the International Legal Personality, Legal Capacity, and Privileges and Immunities of the OSCE, Annex to MC.DD/28/07 of 29 November 2007, in: Organization for Security and Co-operation in Europe, *Fifteenth Meeting of the Ministerial Council, 29 and 30 November 2007*, Madrid, 30 November 2007, pp. 65-77. Since 2007, the DC is referred to using the reference CIO.GAL/48/07/Rev.6, 23 October 2007.

56 To the Preamble and to Article 4.

57 Cited in: Helmut Tichy, Historical timeline – Towards a legal personality, in: *OSCE Magazine* 1/2009, pp. 20-21, here: p. 21.

tion at the Athens Ministerial Council.⁵⁸ When this draft was withdrawn at the last Preparatory Committee meeting on 1 December 2009, 23 participating States intervened to express regret that no consensus decision was possible at this point and stressed that this was still an important issue.

Though the 2007 DC continues to enjoy very broad support among participating States, its adoption and signature have not been possible for the past nine years. Under the Greek Chairmanship, it had indeed become clear that reaching consensus on a convention would require the clear separation, or the joint and simultaneous adoption, of a charter/constituent document and the DC.

The Charter/Constituent Document: The Elephant in the Room

The constituent document of an international organization, whatever its designation (constitution, charter, or statute), is defined as an agreement under international law (but not necessarily a treaty) concluded by several states or subjects of international law to found this organization. This legal instrument lays down the legal framework of the activities of the organization, defines the mandate/missions/activities of the organization, determines the prerogatives of the organization's different bodies, and usually contains a provision on legal capacity and privileges and immunities to be conferred to the organization by its member states. This option would have been the best legal solution at the time of the creation of the CSCE/OSCE.

It is worth noting that the option of a constituent treaty for the OSCE was already dismissed in 2000, largely on the grounds that its negotiation would be a long process involving debates on issues that have already been discussed and on which consensus has been reached, sometimes with difficulty; drafting and adopting a constituent treaty would certainly take more time than drafting and adopting a legal text with the purpose of addressing only the issue of the OSCE's legal personality/capacity and privileges and immunities.⁵⁹ Therefore, "it appears that at the stage reached by the OSCE, having recourse to the conclusion of a constituent treaty only in order to address the issue of the OSCE's legal capacity and privileges and immunities would be a disproportionate and inadequate solution", as the Austrian Chairmanship concluded.⁶⁰

However, several participating States maintained their view that the OSCE needed a statutory document setting out the main goals and principles of the Organization, its structure, and relationships within the OSCE in the form of a charter or statute. They argued that the adoption of a convention in the absence of a charter would not help to solve the main issue of providing

58 Draft decision circulated by the Greek Chairmanship on 12 November 2009 as MC.DD/15/09.

59 Cf. *The OSCE's Legal Capacity and Privileges and Immunities*, cited above (Note 45), para. 11.

60 *Ibid.*, para. 12.

the OSCE with legal personality and legal capacity. They based their view on the legal practice of other international organizations, such as the United Nations, the Council of Europe, and NATO, which have statutory documents and thus enjoy a fully fledged international legal status; hence, a constituent document would position the OSCE as an equal and reliable partner in the international community, capable of fully exercising its rights and assuming its responsibilities. This group of countries stated that without such a charter or a statute, it would be impossible for them to ratify a convention.

On 18 September 2007, Armenia, Belarus, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan, and Uzbekistan introduced a draft Ministerial Council decision on “a concise Charter of the OSCE containing its basic goals, principles and commitments, as well as the structure of its main decision-making bodies”.⁶¹ For its proponents, the draft Charter was not meant to lead to any changes in the substance or political, non-legally binding nature of CSCE/OSCE commitments.

Consequently, as mentioned above, three footnotes were introduced during the elaboration of the 2007 DC. The footnotes made reference to a “Charter”. However, subsequent developments indicate that what matters is the character and contents of such a document, not its name. Therefore the neutral term “constituent document” has been in use since 2011, without prejudice to the outcome of consultations.

At the Madrid Ministerial Council Meeting, Foreign Minister Moratinos observed that even greater impetus could be given “to debate in the Organization on questions related to its strengthening in the legal sphere, including the possibility of drafting a Charter or Founding Statute for the OSCE”, adding: “This should not, in itself, be a matter for concern in any delegation. What is important would be the content, not the format.”⁶²

In 2008, the passage “devising a concise statute or charter of the OSCE and finalizing the elaboration of a convention on legal personality, legal capacity and privileges and immunities of the OSCE, both documents to be adopted simultaneously”, was included in a draft Ministerial Council decision

61 *Draft Decision on the Charter of the OSCE*, PC.DEL/897/07, 18 September 2007. The text of the Charter had been previously introduced to the Permanent Council on 18 May 2007 (PC.DEL/444/07). The draft Charter is actually not that “concise”, as it contains seven chapters and 26 articles. Its chapter V deals with “Legal status, privileges and immunities” in the following way:

“Article 21

1) The OSCE shall possess international legal personality.

2) The OSCE shall possess on the territory of its Member States such legal capacity as is necessary for the exercise of its functions. This comprises, in particular, the capacity to contract, to acquire and dispose of movable and immovable property, to institute and participate in legal proceedings.

3) The privileges and immunities of the OSCE, its officials and of representatives of its Members shall be defined in a separate multilateral agreement. The Members shall undertake to enter as soon as possible into such an agreement.”

62 *Statement by the Chairman-in-Office of the OSCE at the Closing Session of the Fifteenth Meeting of the Ministerial Council, Madrid, 30 November 2007*, MC.DEL/67/07, 30 November 2007, p. 3, at: www.osce.org/mc/29417.

tabled by the Russian Federation and Belarus.⁶³ Since then, the link between a charter or a statute of the OSCE, on the one hand, and a convention on the international legal personality, legal capacity, and privileges and immunities of the OSCE, on the other, has been constantly emphasized by the Russian Federation and its allies.⁶⁴

After Kazakhstan in 2010⁶⁵ and Lithuania in 2011,⁶⁶ the 2012 Irish Chairmanship proposed that discussions on a constituent document could commence in parallel with steps being taken towards the adoption and ratification of the 2007 DC. Consequently, the Irish Chairmanship submitted a revised draft for the consideration of the participating States, which is still considered the most up-to-date version in 2016.⁶⁷

The draft constituent document has been updated over the years according to the wishes expressed by the delegations (including new provisions on reservations and denunciation). In order to facilitate further discussion, the Serbian Chairmanship in 2015 incorporated some of these proposals in a revised draft Document.

At the Ministerial Council in Hamburg, in December 2016, the German Chairmanship decided not to table any draft Ministerial Council Decision that would task the incoming Chairmanship to continue the efforts to strengthen the legal framework of the OSCE in consultation with the participating States, and limited itself to forwarding a report to the Council.⁶⁸

The Operational Consequences of the OSCE's Lack of a Clear Legal Status

The OSCE's legal status is not merely an academic question, nor is it only an end in itself, but also a means for the Organization to effectively and efficiently fulfil the mandates entrusted to it by the participating States and to facilitate its interaction with other international and national actors. Although the OSCE has in principle shown its ability to act with limited legal capacity and privileges and immunities, this handicap reduces the Organization's effectiveness and creates some very tangible problems and disadvantages.

63 *Draft Decision on "Further Measures to Strengthen the Effectiveness of the OSCE"*, PC.DEL/1043/08, 28 November 2008. In 2011, Russia and its allies again circulated a proposal on a draft Ministerial Council decision on strengthening the legal framework of the OSCE (PC.DEL/1153/11, 29 November 2011).

64 See, for instance, the statement by Heads of Delegations of the Republic of Armenia, Republic of Belarus, Republic of Kazakhstan, Kyrgyz Republic, the Russian Federation, and Republic of Tajikistan to the OSCE Parliamentary Assembly on the reform of the OSCE, PA.DEL/1/11, 20 July 2011.

65 Cf. CIO.GAL/103/10/Corr. 1, 6 July 2010.

66 Cf. *Principles for a discussion on a Constituent Document (CD) for the OSCE*, attached to CIO.GAL/169/11, 6 September 2011.

67 Cf. CIO.GAL/68/12, 12 June 2012.

68 Cf. *Report to the Ministerial Council on strengthening the legal framework of the OSCE*, MC.GAL/7/16, 9 December 2016.

The OSCE is currently fragmented into 24 entities in 23 different participating States. The absence of a clear legal status has led to a situation where there is no uniform regime of privileges and immunities applicable throughout the OSCE area. On the contrary, the status and treatment of the OSCE and its staff varies widely from one participating State to another.

Under the national law of their respective host countries, the OSCE Secretariat, the OSCE Parliamentary Assembly (PA), and the three Institutions (ODIHR in Warsaw, the HCNM in The Hague, and the RFOM in Vienna) benefit from legal personality, legal capacity and privileges, and immunities at the level customarily enjoyed by the international organizations in the United Nations system.

Of the 17 OSCE field operations, 15 are the subject of bilateral agreements (Memoranda of Understanding, MoU) between the host state and the OSCE, some of which still require parliamentary ratification. Only one achieved its status through a UN Security Council Resolution and subsidiary UN legislation: the OSCE Mission in Kosovo (OMIK), which has been a pillar of the United Nations Mission in Kosovo (UNMIK). One enjoys nothing at all and cannot open a bank account, hire employees locally, or import property in its own name.⁶⁹

The rights these documents may confer, such as legal capacity; privileges and immunities; inviolability; and exemption from taxes, duties, and social security payments vary greatly, leading to a “variable geometry” in the level of protection. Moreover, seven states hosting field operations have signed but not ratified their MoU, which undermines their legal value and enforcement by local judicial authorities. The OSCE has issued a standard MoU,⁷⁰ but this is often ignored by participating States when it comes to negotiating the basis for an OSCE presence on their territory.

... Which Sometimes Leaves the OSCE and Its Staff Dependent on the Good Will of the Host Country ...

The use of MoU to establish the rights and obligations of field operations has considerably complicated the OSCE’s day-to-day work.

Although these memoranda provide a basis for the OSCE to carry out its work in the field, states parties often view them as nothing more than political statements, circumscribed by the Permanent Council decisions from which they derive their authority, as opposed to binding legal instruments. The partial and provisional remedies they offer can be compared to unilateral laws, applicable only within the territory of the host country and considered valid as long as they do not contradict local legislation. Very often, status of

69 Cf. Tabassi, cited above (Note 21), para. 3.2, p. 3.

70 Attached to CIO.GAL/173/06, 17 October 2006.

operation remains unclear and produces overreliance on “practice”, which often proves ineffective, varies over time, and results in conflicts with the OSCE regulatory framework, which, however, may not take precedence over national laws. For this reason, the re-negotiation of these MoU, when necessary, has always been a tricky process.⁷¹

The closure of the OSCE presence in Azerbaijan in 2015 has shown that legal status, privileges, and immunities granted on a bilateral basis can disappear overnight. In this specific case, the host state unilaterally and formally notified the OSCE that the MoU granting such status to the field operation was terminated with immediate effect, and the Organization was given one month to wind up its operations and repatriate its international members.

... and Affects the OSCE at the Operational Level ...

“The lack of a legal personality for the Conference on Security and Co-operation in Europe was a nightmare right from my first day in office as the first Secretary General of the CSCE/OSCE”, remembered Ambassador Wilhelm Höynck.⁷² In practical terms, the lack of clarity regarding the legal status of the OSCE has major administrative, financial, and reputational implications for the day-to-day work of the OSCE, its executive structures, field operations, and their staff. Estimates of the amount lost annually by the OSCE as a direct result of this unsolved situation range from 1.5 million to two million euros, amounting to over one per cent of the total budget.⁷³

First of all, there may be substantial doubts regarding the OSCE’s capacity to conclude treaties, headquarters agreements, MoU, or other instruments governed by international law, as even stated by the OSCE Chair itself.⁷⁴ The Organization’s legal capacity may be questioned by the other party a posteriori in case of a dispute relating to the application of the agreement. The OSCE’s capacity to file international claims against states may be similarly called into question. Participating States hosting the OSCE Secretariat and Institutions have sometimes used the Organization’s lack of legal personality as an argument for not concluding headquarters and host country agreements.

At the same level, the international standing of the OSCE might be hampered whenever access to international forums requires international legal personality or legal capacity. For instance, the OSCE failed to obtain a “.int” domain name from the International Computing Centre (ICC), as it had

71 Cf. OSCE Secretary General, *Working Paper on “Privileges and Immunities of the OSCE”*, SEC.GAL/203/05, 30 September 2005.

72 Quoted in: Sonya Brander, Making a credible case for a legal personality for the OSCE, in: *OSCE Magazine* 1/2009, pp. 18-22, here: p. 20.

73 Cf. Chairmanship (Ireland) Food for Thought Paper, *Strengthening the Legal Framework of the OSCE*, CIO.GAL/63/12, 18 May 2012.

74 Cf. *Difficulties the OSCE has faced or may face due to the lack of international legal personality, legal capacity and privileges and immunities granted by all participating States*, SEC.GAL/71/00, 13 July 2000, p. 1.

no constituent treaty establishing its existence. Certain international organizations might have difficulties in entering into co-operation agreements with the OSCE, thus being prevented from carrying out joint actions and from funding specific OSCE activities. Observer status in international organizations could be denied. The OSCE could probably not appear before the ICJ or other international courts.

The liability of the Organization and its officials is subject to the same uncertainty. Although it is the view of international legal experts that the OSCE is a subject of international law in the sense that it can incur international responsibility for its acts, despite the lack of a clear legal status, it is unclear who in the Organization (the Secretary General? the Permanent Council? the participating States? the seconding state where a seconded staff member is involved?) should be accountable and be held liable, for example, in the event of an accident causing damage. Sonya Brander openly asks the question:

A field project has been delayed. Who could be sued for damages? The OSCE official who signed the contract? The OSCE? Participating States? Would the OSCE insure the official? Perhaps, given the risks, another organization should implement the project instead?⁷⁵

This issue of the Organization's legal responsibility was again pointedly highlighted by the Donbas hostage crisis in 2014.⁷⁶

On a more technical level, field operations have encountered difficulties opening bank accounts in several participating States, as banks would ask for proof that the OSCE is a legal entity that can be held liable for withdrawals and deposits. The lack of clarity on the status of missions has sometimes caused delays in the import of goods for missions while raising the cost of customs clearance. Taxes levied on miscellaneous goods and services also divert participating States' contributions away from OSCE activities; in the absence of a harmonized position on this issue, the situation varies greatly among the host countries of missions, and only a small number of states exempt the OSCE from customs duties and taxation, which increase the running costs of OSCE operations.⁷⁷ The lack of a uniform system of privileges and immunities affects the ability of OSCE officials and equipment to cross borders, as privileges and immunities established through bilateral agreements

⁷⁵ Brander, cited above (Note 72), p. 19.

⁷⁶ In May 2014, two groups of OSCE monitors were abducted on Ukrainian territory and detained for 31 and 26 days, respectively.

⁷⁷ At its inaugural meeting, the Group of Legal Experts tasked with reviewing the implications of the lack of international legal status and uniform privileges and immunities of the OSCE acknowledged that approximately one per cent of the OSCE's total budget is used to pay fuel tax for OSCE vehicles; cf. *1st Meeting of the Group of Legal Experts tasked with reviewing the implications of the lack of international legal status and uniform privileges and immunities of the OSCE*, Vienna, 7 July 2006, attached to CIO.GAL/173/06, cited above (Note 70).

do not apply in third countries; this acquires particular relevance in view of the increase in OSCE activities with a “regional” character. Finally, it has also proven difficult at times to enter into contracts, to acquire and dispose of movable and immovable property, and to ensure effective insurance coverage.

Instituting and participating in legal proceedings have been additional problems. The lack of legal personality impedes the capacity of the OSCE to directly assert its rights before authorities; most of the time, the regular diplomatic channels offer the only possible way. The courts of some participating States have held that the OSCE did not enjoy immunity from jurisdiction and have often maintained that domestic legislation overrode OSCE Staff Regulations and Rules. It is not clear that an MoU establishing a field operation and providing it with privileges and immunities could be enforced, either through arbitration or in a domestic court, for instance, in case of interference with OSCE facilities and property⁷⁸ or in respect of lawsuits filed in relation to labour and commercial law issues. Regarding contracting and procurement, the OSCE may face legal difficulties in the event that a complaint is filed by a contracting company with a local court in a state that has not granted legal capacity and privileges and immunities to the OSCE. It has no real possibility of redress if it suffers financial damages or losses. In the absence of the OSCE’s legal recognition as an entity, it is unlikely that a party prosecuted by the OSCE would admit the Organization’s status to sue.

... Particularly as far as Its Staff Are Concerned ...

While the issue of classification of GATT was about as interesting to GATT officials as “ornithology is to birds”, a locally engaged OSCE official on mission being thrown to jail because of uncertainties of her legal status and that of the organization, turns out to pose entirely different questions.⁷⁹

As so often, the human factor sheds some raw light on the issue of the OSCE’s legal status.

The relationship between an international organization and its staff members is unique. The staff of an international organization are, to a large extent, excluded from any legal system and dependent on the internal procedures established by their organization. Furthermore, the members of international civil services face certain extraordinary threats and dangers such as crime and terrorism, which need to be taken into consideration in order to

78 On occasion, customs or police authorities of participating States have seized OSCE vehicles or documentation or entered OSCE premises to execute court orders.

79 Torfinn Risløe Arntsen, Foreword in: Finn Seyfersted, *Common Law of International Organizations*, Leiden 2008, pp. xi-xx, here: p. xvi. Some missions have indeed experienced cases of arrest and detention of local staff members while they were performing their official functions, and faced difficulties in obtaining their release.

prevent uncertainty and insecurity from arising. This is why it is so important that “OSCE officials shall be entitled to the protection of the OSCE in the performance of their duties”.⁸⁰

Regulation 2.03 of the OSCE Staff Regulations and Rules states that “the Secretary General, the heads of institution and heads of mission, as well as staff members and international mission members shall enjoy the privileges and immunities to which they may be entitled by national legislation or by virtue of bilateral agreements concluded by the OSCE relating to this matter”.⁸¹ But it leaves to the discretion of the state hosting institutions or fields operations to decide which privileges and immunities the staff should enjoy. That confronts the OSCE and its field operations with a series of problems.

First of all, as the MoU governing the work of the OSCE field presences are bilateral documents, their ambit is limited to the borders of the host country and they do not necessarily grant status to people such as experts and consultants, or to representatives of the OSCE Chairmanship-in-Office, the Secretariat (including the Secretary General himself), other field missions, institutions, or participating States who travel for official business to the territory of the host State (e.g. for regional or bilateral projects). As these individuals do not enjoy appropriate privileges and immunities by sole virtue of their position, they could be sued in their personal capacity for decisions taken or acts performed in the exercise of their functions, including in connection with injury or death. Certain staff members may have diplomatic passports issued by their national authorities, but this may not provide sufficient protection.

In many instances, the protection granted to the local staff of field operations, who are a vital asset for the OSCE missions (2,700 local staff members in 2000, 1,815 in 2015), is limited, if not non-existent. The Vienna Convention on Diplomatic Relations, to which most MoU refer, provides that local staff enjoy privileges and immunities only to the extent admitted by the receiving states. As a consequence of this lack of protection, for example, local staff may be summoned to provide evidence or testimony before local authorities even in respect of OSCE business; if they refuse to answer to summons as witnesses, they can be prosecuted (possibly facing fines and/or imprisonment). The OSCE has experienced cases in the past where exemption from legal process was not granted to local staff. National taxation of the salaries paid by the OSCE to locally recruited staff also places the OSCE in an uncompetitive position vis-à-vis other international organizations in terms of its ability to attract local staff, especially in areas where other organizations enjoy exemption. Finally, certain host countries consider local staff to

80 Organization for Security and Co-operation in Europe, *Staff Regulations and Staff Rules*, DOC.SEC/3/03, September 2003, Updated: 17 July 2014, Regulation 2.07, p. 9, at: <http://www.osce.org/employment/108871>.

81 Ibid., Regulation 2.03 (a), p. 6.

remain outside the domestic social security regimes and therefore not entitled to benefits such as pensions and health insurance. In 2006, the Group of Legal Experts observed that many states have advised that if the OSCE had legal personality, local staff would enjoy immunities and be exempt from taxation.⁸²

Taxation of national staff is also a recurring problem that is addressed by the Permanent Council's Advisory Committee on Management and Finance every quarter and is the subject of frequent complaints by heads of OSCE field operations. Some participating States, in contravention of many international instruments that prohibit direct taxation,⁸³ tax their nationals for incomes paid by the OSCE. This poses several problems. First, there is inequality of treatment of OSCE international employees depending on their countries of origin. Second, by taxing OSCE salaries, the country indirectly recovers part of participating States' contributions to the OSCE budget, thus gaining an unfair advantage; "Some participating States profit financially from this situation", is the frank conclusion of Sonya Brander and Maria Martín Estébanez.⁸⁴ Furthermore, it prejudices the independence of the Organization.

The accreditation of staff, both seconded and international, has been the source of numerous operational problems. This limits the ability of missions to operate properly and has occasionally led to missions experiencing a shortage of international personnel for prolonged periods.

Because the OSCE as an entity does not enjoy legal personality, staff supervisors might also be left overexposed. In the event of an employment dispute, a local mission member could initiate legal proceedings against the OSCE official who signed their letter of appointment rather than against the OSCE. Similarly, the judicial and tax authorities could take legal and administrative measures against OSCE officials, viewing them as the employer and as such subject to domestic laws. Here again, Sonya Brander's views as a practitioner are useful:

A staff member has been shot at while on the job. The supervisor is concerned that he could be sued as a result. If so, will the OSCE indemnify him? Should he obtain insurance?⁸⁵

Other concerns include the lack of exemption from national service obligations, which can impair the operation of missions in times of conflict; the

82 Cf. *1st Meeting of the Group of Legal Experts*, cited above (Note 77).

83 Cf. for instance, *Convention on the Privileges and Immunities of the United Nations of 1946*, Article II, Section 7 (a); *Convention on the Privileges and Immunities of the Specialized Agencies of 1947*, Article III, Section 9 (a); *General Agreement on Privileges and Immunities of the Council of Europe of 1949*, Article 7; *Protocol on the Privileges and Immunities of the European Communities of 8 April 1965*, Article 3, at: https://www.ecb.europa.eu/ecb/legal/pdf/ppi_en.pdf.

84 Brander/Martín Estébanez, cited above (Note 10), p. 4.

85 Brander, cited above (Note 72), p. 19.

status of family members of OSCE members of staff; and the possibility that a state may expel an official (as a “*persona non grata*”).

... and in Performing Increasingly Complex Activities

Many missions, from their very nature, involve the agents in unusual dangers to which ordinary persons are not exposed.⁸⁶

The OSCE did not remain in the sphere of the merely politically binding, contrary to the intentions of its founders. On the contrary, it has taken on increasingly complex activities and “high-risk” projects, including destroying surplus ammunition, setting up a computerized electoral system across a whole country, and carrying out projects in dangerous areas.

The rapid deployment in Ukraine brought into sharp focus the legal and operational consequences of the lack of consensus on the international legal personality and the scope of privileges and immunities to be enjoyed by the OSCE, its structures, and officials.

On 21 March 2014, the Permanent Council adopted Decision No. 1117 establishing a new OSCE field operation, the Special Monitoring Mission (SMM) to Ukraine. In that decision, the Secretary General was tasked to deploy an advance team within 24 hours of its adoption, which he did, assessing the effectiveness, flexibility, and ability of the OSCE to react rapidly.

The existing MoU between the OSCE and Ukraine, dating from 13 July 1999,⁸⁷ only covered the established field mission, the OSCE Project Coordinator in Ukraine (PCU). Consequently, it was necessary to negotiate a new instrument covering the mandate and format of the SMM, an initial force of 100 civilian monitors, expandable to 500 and eventually 1,000, beginning in January 2015, and tasked to monitor and verify the ceasefire and withdrawal of heavy equipment and weapons under the Minsk Agreements, as well as addressing its status and that of its employees, its legal capacity, security arrangements, and protection by the host state, inviolability, privileges and immunities, custom clearance of equipment, visas, etc.⁸⁸

The MoU on the deployment of an OSCE special monitoring mission was signed on 14 April 2014, providing for provisional application of all its stipulations, except privileges and immunities. It was ratified by the Ukrainian *Verkhovna Rada* on 29 May 2014, and subsequently entered into force on 13 June 2014. The whole process thus took a total of twelve weeks from the date of deployment. For the first three weeks (from deployment on 22 March

86 *Reparation for injuries suffered in the service of the United Nations*, cited above (Note 20), p. 183.

87 *Memorandum of Understanding between the Government of Ukraine and the Organization for Security and Co-operation in Europe (OSCE) Concerning the Creation of a New Form of Co-operation*, Vienna, 13 July 1999, at: <http://www.osce.org/ukraine/37928>.

88 Cf. *The OSCE's Lack of an Agreed Legal Status – Challenges in Crisis Situations*, cited above (Note 40), p. 57.

until signature on 14 April 2014), the SMM was therefore operating without formal legal status or capacity, as Lisa Tabassi, Head of the Secretariat's Legal Services, often points out. During this initial period of three weeks, the Mission was also hampered by its lack of formal legal capacity, which prevented it from being entitled to open bank accounts, enter into contracts, or import much-needed equipment and vehicles; these difficulties had to be resolved on an ad hoc basis. For the first twelve weeks (until the entry into force of the MoU on 13 June 2014), the SMM monitors had no formal privileges and immunities covering their official activities, nor could they enjoy security protection guaranteed by the host state, beyond the courtesy extended to official visitors.⁸⁹

All in all, the ability of the OSCE to react rapidly to the situation in Ukraine in 2014 was significantly impacted by the OSCE's lack of a formal legal status in the host state at the outset, as has been pointed out by the OSCE Parliamentary Assembly.⁹⁰

The MoU signed on 14 April has not solved everything: It does not cover the rest of the OSCE (ODIHR, HCNM, the Secretary General when he visits the country). It does not address, of course, difficulties inherent in the lack of legal status of the OSCE as a whole, which has, for instance, made secondment of monitors by some participating States more complicated. The use of new technologies (unarmed unmanned aerial vehicles, UAVs) has raised additional legal problems.

The deployment of formed police units under an OSCE mandate, to provide security for election monitoring in accordance with the Minsk Agreements, which the participating States started to discuss in 2016, would again confront the Organization with its lack of legal status. Beyond the OSCE's current experience in Ukraine, it might have implications for future OSCE field operations, in particular peacekeeping.⁹¹

The Disposition of Forces

"The issue of the OSCE's legal capacity itself remains deadlocked on grounds of political principle", summarized the Dutch Chairmanship of the

89 Cf. Lisa Tabassi, *The Question of Legal Status for the OSCE and Implications for Ukraine*, OSCE Parliamentary Assembly/Danish Institute for International Studies (DIIS), Helsinki +40 Supplementary Seminar: The OSCE's Lack of Legal Status – Challenges in Crisis Situations, Copenhagen, Danish Parliament, 27 April 2015, p. 4, para. 5.6, at: <https://www.oscepa.org/documents/all-documents/helsinki-40/seminar-4-diis/2919-presentation-by-lisa-tabassi-for-helsinki-40-seminar-27-april-2015/file>.

90 Cf. Organization for Security and Co-operation in Europe, Parliamentary Assembly, *Resolution on Helsinki +40: Building the OSCE of the Future*, adopted at its 24th Annual Session in Helsinki in July 2015, para. 8, at: <https://www.oscepa.org/meetings/annual-sessions/2015-annual-session-helsinki/2015-helsinki-final-declaration/2281-06>.

91 The 1992 Helsinki Document provides for eventual CSCE/OSCE civilian and/or military peacekeeping missions. Cf. Tabassi, cited above (Note 89), p.5, para. 7.3.

OSCE in 2003.⁹² Almost fifteen years later, the positions expressed by the participating States can be divided in three categories:

- One participating State, after objecting to any legal reinforcement of the OSCE for years, has supported the principle of a convention on the international legal personality, legal capacity, privileges, and immunities of the Organization since 2006, but also expresses the opinion that there is no need for a constituent document and that even a discussion on it might be counterproductive for the OSCE.
- One other participating State and its allies, having advocated in favour of granting the OSCE legal tools since the beginning, stresses that the adoption of the Draft Convention and the adoption of a constituent document must be parallel processes, and that no progress could be made on one without corresponding progress on the other.
- The majority of participating States, including the EU member states, continue to support the immediate adoption and opening for signature of the Draft Convention, without footnotes, and are also open to continuing discussions on a draft constituent document.

The United States: Keeping the OSCE Status to the Minimum Necessary

Up to 2006, the United States “always blocked giving a legal status to the OSCE, as it preferred to keep its flexible political character, even though all the other OSCE participating states had gradually come to the conclusion that an international legal status for the organization is indispensable in order to deal effectively with the many security challenges in the Eurasian area”.⁹³#

“I would emphasize that the document I will sign is neither a treaty nor is it legally binding on any participating state”, stated President Gerald Ford prior to attending the signing of the Helsinki Final Act.⁹⁴ The US might have been worried about the creation of an international legal system for European security parallel to the UN. Marcus Wenig’s opinion is also that legal status for the CSCE would, for the US, have weakened NATO as the “main player”, as Russia’s proposal from the early 1990s foresaw the transfer to the CSCE of the main responsibility for maintaining peace in Europe.⁹⁵

As mentioned above, the 1993 Rome decision was largely inspired by the US; Congress enacted the legislation necessary to implement it in April

92 Chairmanship’s Report on Reform Issues, MC.GAL/5/03/Rev.1, 27 November 2003, in: Organization for Security and Co-operation in Europe, *Eleventh Meeting of the Ministerial Council, 1 and 2 December 2003*, MC.DOC/1/03, Maastricht, 2 December 2003, pp. 148-152, here: p. 152, at: <http://www.osce.org/mc/40533>.

93 Arie Bloed, Legal status of the OSCE in the making, in: *Helsinki Monitor: Security and Human Rights* 2/2007, p. 164-167, here: p. 164.

94 Gerald R. Ford, *Text of Remarks at a Meeting With Representatives of Americans of Eastern European Background Concerning the Conference on Security and Cooperation in Europe*, 25 July 1975, at: <http://www.presidency.ucsb.edu/ws/?pid=5106>.

95 Cf. Wenig, cited above (Note 29), pp. 374 and 381.

1994. Later on, the US government fought successfully against efforts to provide CSCE institutions with broader privileges and immunities where there was no demonstrable need for them.⁹⁶

Victor-Yves Ghebali was fiercely critical of US obstruction; in his opinion, “The impasse was due to the negative attitude of a single country: The United States”, which was, for him, “the country most opposed to the ‘juridification’ of the OSCE”.⁹⁷ According to Ghebali, this position is rooted in the constitutional relationship between the executive and legislative powers in America: The lack of legal status would allow the US executive to operate freely at the OSCE while entirely bypassing Congress.⁹⁸

In 2002, however, an important change in the US stance began to emerge:

We appreciate the importance of legal status to many delegations. Because the most practical concern we face over legal issues is the legal status of our OSCE staff in the field, I am pleased to announce today that we are prepared to consider supporting a convention that would cover privileges and immunities and the authority to contract.⁹⁹

However, the same statement also contained the following:

Prior consultations with Congress and within the Administration, however, have revealed strong satisfaction with the unique character of OSCE and opposition to altering it in any fundamental way. Consequently, we will not be able to support [...] granting OSCE international legal personality.¹⁰⁰

This position remains the same today. The US supports maintaining the flexible, informal, and relatively unbureaucratic character of the OSCE and the promptness it offers in decision-making and crisis response, and therefore objects to a charter establishing the OSCE as an international organization with legal personality, which Washington believes would not enhance the OSCE’s effectiveness, but would on the contrary “misdirect our energies and political capital away from the OSCE’s substantive work”, undermine the Organization’s significance as a platform for political dialogue, and raise concerns as

96 Cf. Sapiro, cited above (Note 10), pp. 634-636.

97 Ghebali, cited above (Note 46), pp. 57 and 59 (author’s translation).

98 Since the US government’s sole obligation is to submit an annual report to the Commission on Security and Co-operation in Europe (the Helsinki Commission), a body created in 1976 to follow and encourage governmental and non-governmental initiatives aiming at promoting the objectives of the Final Act.

99 United States Mission to the OSCE, *Statement to the Permanent Reinforced Council*, delivered by John Schmidt, Director for European Regional Political-Military Issues, Bureau of European Affairs, Department of State, Vienna, June 28, 2002, PC.DEL/482/02/Corr.1, 1 July 2002, p. 5.

100 Ibid.

to the maintenance of the OSCE *acquis* and its sensitive internal power relations.¹⁰¹ At the same time, the US believes that the Draft Convention on privileges and immunities agreed in 2007 would provide the necessary basis for developing such a legal personality and removing the uncertainty and expense the OSCE has faced without it, and, since 2006, fully supports its adoption.¹⁰²

The Russian Federation: Building up a Fully Fledged International Organization

While the United States wants the OSCE to be a flexible ad hoc instrument, and fears it would become less controllable if it developed an institutional life of its own, the Russian Federation sees the Organization as the lead organization for European security.¹⁰³ Russia's stance can thus be categorized as favouring more concrete formalization of OSCE working bodies and procedures.¹⁰⁴

It is well known that the Russian Federation is the champion of transforming the OSCE into a full-fledged international organization meeting criteria that have become generally and universally accepted in the sphere of multilateral politics during the recent decades. [...] That is why we consistently stand up for laying down a normative, legal foundation for the functioning of the OSCE, for determining its structure and procedures, as well as rights and obligations of its participating States.¹⁰⁵

Early in the history of the CSCE, the Russian Federation had advocated in favour of a treaty. In its opinion, the tasks set out by the Rome Council in 1993 could not be accomplished through the conclusion of bilateral agree-

101 Cf. United States Mission to the OSCE, *Statement on the Purpose and Priorities of the OSCE*, as delivered by Principal Deputy Assistant Secretary Kurt Volker at the opening session of the High Level Consultations, PC.DEL/860/05, 12 September 2005. Cf. also *Response to Russian Foreign Minister Lavrov*, as delivered by Ambassador Julie Finley to the Permanent Council, FSC-PC.DEL/18/07, 23 May 2007.

102 Cf. United States Mission to the OSCE, *Opening Plenary Session, as delivered by Dr. Michael Haltzel, U.S. Head of Delegation, OSCE Review Conference, Vienna, October 18, 2010*, RC.DEL/190/10, 19 October 2010.

103 "The architecture of European security, in our opinion, should be based on the OSCE, the only European international organization that protects the interests of all its member states." Anatolii Kvashnin, *Main Security challenges: A Military Response*, in: *International Affairs: A Russian Journal* 1/2000, cited in: Randolph Oberschmidt/Wolfgang Zellner, *OSCE at the Crossroads*, CORE Working Paper 2, Hamburg 2001, p. 12.

104 Cf. Oberschmidt/Zellner, cited above (Note 103), p. 5.

105 Permanent Mission of the Russian Federation to the OSCE, *Statement on the strengthening of the OSCE at the meeting of the Security Model Committee, 29 May 1998*, PC.SMC/38/98, 29 May 1998.

ments between the OSCE and its participating States, which the domestic legislation of the Russian Federation would in any case forbid.¹⁰⁶

In accordance with that position, the Russian Federation supported the recommendations of the 2005 Panel of Eminent Persons on the importance of completing the process, begun in 1995, of transforming the OSCE from a consultative mechanism into a fully fledged modern international body in the sense of Chapter VIII of the UN Charter. The matter of the legal status should be settled in two stages: first, adopting a statute or charter that would set forth the main legal attributes of the OSCE as an international organization and thus would ensure that the OSCE possesses international legal personality, and second, agreeing on a convention that would deal with legal capacity, privileges and immunities of the Organization and its officials.¹⁰⁷

In any case, the entry into force of a convention on privileges and immunities, if and when there is agreement on a draft, will be possible only in conjunction with the entry into force of a statute or charter of the OSCE.¹⁰⁸

Russia's allies have closely aligned themselves around this position.¹⁰⁹

The European Union: The Honest Broker

The EU has always stated its wish to see the OSCE, as an international organization, granted legal personality and privileges and immunities. Its objectives have been:

106 "It should be pointed out that in the absence of an international legal document in which the OSCE is established as a subject of international law, the Russian Federation is unable to conclude a bilateral agreement with the OSCE concerning privileges and immunities, since it can enter into international agreements only with other subjects of international law." *Talking points on the statement by the representative of the Russian Federation at an informal open-ended working group on the legal capacity, privileges and immunities of OSCE Institutions*, PC.DEL/496/00, 22 September 2000.

107 Cf. Republic of Armenia, Republic of Belarus, Kyrgyz Republic, Russian Federation, Republic of Tajikistan, Republic of Uzbekistan, *Food-for-thought Paper on the Legal Status of the OSCE*, PC.DEL/252/10/Corr. 3, 8 June 2010.

108 Interpretative Statement under Paragraph IV.1(A)6 of the OSCE Rules of Procedure by the delegation of the Russian Federation, attached to Organization for Security and Co-operation in Europe, Ministerial Council, *Decision No. 16/06, Legal Status and Privileges and Immunities of the OSCE*, MC.DEC/16/06, 5 December 2006, at: <http://www.osce.org/mc/23203>.

109 On Azerbaijan's position, see, for instance, PC.DEL/917/05, 20 September 2005 or PC.DEL/440/10, 25 May 2010; on Kazakhstan's position, see, for instance, FSC-PC.DEL/16/07, 23 May 2007 or PC.DEL/1096/07, 8 November 2007; on Tajikistan's position, see, for instance, MC.DEL/11/09, 1 December 2009 or PC.DEL/287/11, 31 March 2011.

- “internal and international recognition of the OSCE’s legal personality
- establishment of a consistent regime of immunities and privileges for all participating States
- protection of OSCE personnel, including mission members.”¹¹⁰

However, with the 2000 Vienna Ministerial Council approaching, the EU agreed to support the compromise text of a convention proposed by the Austrian Chair, even while pointing out that the text fell far short of its expectations, and invited the other participating States to support it as well.¹¹¹ After the failure to adopt the DC in Madrid in 2007, the EU expressed its regret, and remained “firmly committed to its approval which would give the OSCE the recognition as a full-fledged international organization”.¹¹²

Vis-à-vis a statute or charter for the OSCE, the EU saw merit in the approach and showed willingness to continue discussion, as expressed by Spain’s minister for foreign affairs and co-operation at the end of the Madrid Ministerial Council:

Some participating States plead for the approval of a founding charter or Statute for the OSCE. Spain believes that this charter would be beneficial if it had the effect of bringing the OSCE’s status into line with other multilateral organizations, and provided it did not serve as a pretext for reopening political questions long since resolved.¹¹³

For the EU, the priority nevertheless remains in the prompt adoption of the DC, without reservations and after the lifting of the footnotes.¹¹⁴

Helmut Tichy and Ulrike Köhler are right: The curse of the OSCE does not lie in the absence of a founding treaty, nor in the original intentions of its founders to establish political co-operation rather than an international organization, but in “the explicit opposition by two ‘persistent objectors’ to an informal acquisition of international organization status: the United States of

110 *Déclaration de l’Union Européenne sur la capacité juridique, réunion du 13 novembre 2000* [Declaration of the European Union on Juridical Capacity, meeting of 13 November 2000], PC.DEL/713/00, 13 November 2000 (author’s translation).

111 Cf. *ibid.* See also Markéta Molnárová, *Historical overview of legal personality at the OSCE – participating States’ opinions*, 28 December 2012, in which the author provides a useful overview of the various positions of the OSCE participating States, including many EU member States, vis-à-vis the draft convention and the constituent document, especially pp. 10-13.

112 *Closing Statement of the Portuguese Presidency of the Council of the European Union*, MC.DEL/73/07, 30 November 2007, at: <http://www.osce.org/mc/29431>.

113 *Statement by the Minister for Foreign Affairs and Co-operation of Spain, Chairman-in-Office of the OSCE, at the Fifteenth Meeting of the Ministerial Council*, Madrid, 29 November 2007, MC.DEL/12/07, p. 2-3, at: <http://www.osce.org/mc/29258>.

114 Cf. *EU Statement on the OSCE’s Legal Framework*, OSCE Review Conference, RC.DEL/320/10, 26 October 2010.

America and the Russian Federation, sometimes supported by a few other participating States”.¹¹⁵

The Four Options Tabled at the IWG in 2016 and the Initiative of the Secretary General

The Informal Working Group on Strengthening the Legal Framework of the OSCE (IWG), co-ordinated and chaired by a representative appointed by the Chairperson-in-Office (from 2012 until 2016, Ambassador John Bernhard of Denmark; since 2017, Ambassador Helmut Tichy of Austria, who had already played a prominent role on that issue a decade ago), holds an average of three meetings annually.

Although the number of options debated by the states had reached six in 2014, during the Swiss Chairmanship, the IWG agreed at its meeting of 15 April 2015 to focus its deliberations on a limited number of options that seemed to provide a more acceptable basis for further discussion and possible consensus. In addition to the four options on the agenda of the IWG in 2016,¹¹⁶ which are aimed at identifying a multilateral, permanent solution to the problem, the OSCE Secretary General has proposed in July 2015 a model Standing Arrangement between the OSCE and each participating State, to address the duty of care towards OSCE staff and pursue the status, privileges, and immunities via national measures, through a separate track from the ongoing discussions at the IWG.

Option 1: The Adoption of the 2007 Draft Convention

This first option consists of: a) removing the three footnotes from the 2007 DC; b) adopting the text; and c) opening it for signature to interested participating States. The Convention could be adopted by silence procedure either before or during the annual Ministerial Council and opened for signature immediately. Signatories would then be encouraged to ratify, accept, or approve the Convention, as laid out in Article 22(1), once the necessary domestic steps have been taken to ensure compliance with its terms.

Successive recent OSCE Chairmanships have suggested innovative proposals in an attempt to convince the participating States to adopt the 2007 DC and to establish a “lock” mechanism that would permit a smaller number of participating States to maintain a veto on the entry into force of the Convention.

¹¹⁵ Tichy/Köhler, cited above (Note 19), p. 460.

¹¹⁶ Cf. *Report of the German Chairmanship to the Ministerial Council on Strengthening the Legal Framework of the OSCE in 2016*, MC.GAL/7/16, 9 December 2016.

In 2012, the Irish Chairmanship proposed to increase the threshold for the Convention's entry into force,¹¹⁷ which would permit such a veto, while allowing for the removal of the footnotes; this particular proposal was taken over by the Ukrainian Chair in 2013 as a way of providing assurances to participating States that link the entry into force of the Convention to the adoption of a Constituent Document, despite some caveats.¹¹⁸ In addition, following the adoption of the Convention, certain participating States might wish to make a declaration concerning a link to a Constituent Document.¹¹⁹ This declaration could take the form of a statement that these participating States will not ratify, accept, or approve the Convention until a Constituent Document has been adopted. As foreseen by Article 23, the DC could be provisionally applied by individual participating States immediately or upon ratification, acceptance, or approval. Such provisional application would gradually lessen the disadvantages arising from the Convention's not having entered into force, and would allow the OSCE to enjoy privileges and immunities in these participating States prior to the Convention's formal entry into force.¹²⁰

One year later, the Ukrainian Chair put a "signing only" option on the table, which would have involved splitting up signing and ratification into distinct and separate stages, with a view to providing additional safeguards to those participating States that may wish to subject the conclusion of the 2007 DC to additional requirements to be further negotiated and agreed.¹²¹ This option was endorsed by the Swiss Chairmanship in 2014, which also connected it to raising the threshold for the entry into force, as suggested by Ireland two years earlier.¹²² After the removal of the footnotes and the revision of its final provisions, the 2007 DC could be adopted and opened for signature, with a decision on its opening for ratification left to be determined at a later date, possibly by a decision of a future Ministerial Council. In this way, the Convention text would have at least changed status from a mere draft to an adopted text. Moreover, according to international law, signature of the

117 Under its current provisions, the DC would come into force when it has been ratified by two-thirds of the participating States.

118 As Ukraine pointed out, however, this approach could entail a risk of unsettling the careful balance reached in 2007. In order to minimize the potential adverse consequences of a wider renegotiation of the text, the participating States should clearly define the scope of intervention into the text of the Draft Convention, which should be limited to the number of ratifications, cf. *Non-paper, Proposal for further work on strengthening the legal framework of the OSCE in 2013*, CIO.GAL/118/13, 26 July 2013, para. 7.

119 In 2013, the Ukrainian Chairperson-in-Office also suggested that the three footnotes could be replaced "by declarations or reservations, or by including them in the MC decision about adoption of the Convention, while also dealing with the linkage to the question of work on a Constituent Document", *ibid.*, para. 3.

120 Cf. *Chairmanship (Ireland) Food for Thought Paper*, cited above (Note 73).

121 Cf. Informal Helsinki +40 Working Group on Strengthening the OSCE Effectiveness and Efficiency, *Food-for-Thought on Strengthening the Legal Framework of the OSCE*, 16 July 2013, CIO.GAL/93/13, 9 July 2013, and *Non-paper, Proposal for further work on strengthening the legal framework of the OSCE in 2013*, cited above (Note 118), paras 4-5.

122 Cf. CIO.GAL/108/14, 30 June 2014.

Convention by a participating State would also create an obligation to refrain, in good faith, from acts that would defeat the object and the purpose of the agreement.¹²³ Splitting up the signing and the ratification of the Convention into different stages would have allowed certain participating States to prevent the Convention from being ratified until a Constituent Document was agreed upon. In addition, these participating States could have underlined this by making an interpretative statement or declaration upon adoption of the Convention, as explained above.

Consent would thus have been required from all participating States at two or three separate stages: for adopting and opening the Convention for signature; for opening the Convention for ratification at a later date; and for the entry into force of the Convention, if raising the threshold is added as a third element as proposed successively by Ireland and Ukraine.

All these variants would multiply the categories of participating States with different statuses vis-à-vis the Convention: Some would sign it with no reservations, some others with reservations related to the Constituent Document; some would ratify it, while some others would delay their ratification or make it conditional upon some other factor; a provisional application would make things even more confused. Already in 1993, the Group of Experts mandated by the CSCE Committee of Senior Officials had clearly foreseen the risk of a two-tier system, whereby the legal status would be comprehensively regulated among the parties to the treaty, but undefined in other States.¹²⁴ The case of the Treaty on Conventional Forces in Europe (CFE Treaty), which adapted version signed on 19 November 1999 in Istanbul has been ratified by the Russian Federation, Belarus, Kazakhstan, and Ukraine, but by none of the NATO allies, and has, since then, remained unimplemented, should indeed be carefully kept in mind.¹²⁵

In any case, the adoption and entry into force of the Convention cannot be seen in isolation from progress being achieved on a Constituent Document.

123 According to the Vienna Convention on the Law of Treaties of 23 May 1969, “a State is obliged to refrain from acts which would defeat the object and purpose of a treaty when: (a) It has signed the treaty”. Article 18, in: United Nations, *Treaty Series*, 1980, document No. 18232, p. 336.

124 Cf. CSCE Ad Hoc Group of Legal and Other Experts, *Chairman's Working Paper No. 1*, 17 September 1993, attached to *CSCE Communication No. 254*, cited above (Note 33), p. 3. The Russian Federation also warned against “the threat of dividing the OSCE in two groups of Participating States”, *Statement by the legal expert of the Russian Federation at the 3rd meeting of the open-ended working group on the OSCE legal capacity*, PC.DEL/717/00, 14 November 2000.

125 Cf. Loïc Simonet, *Trois ans après la suspension du Traité sur les forces conventionnelles en Europe par la Fédération de Russie: Retour sur les fondements juridiques d'un acte controversé* [Three Years after the Suspension of the Treaty on Conventional Armed Forces in Europe by the Russian Federation: Return to the Legal Basis of a Controversial Act], in: *Revue générale de droit international public* 1/2011, pp. 157-173.

Option 2: The Two-Document Approach: Constituent Document and 2007 DC

This option, which can be traced back to the 2005 Report of the Panel of Eminent Persons, consists of the parallel (or consecutive) adoption of a constituent document for the OSCE and the 2007 DC.

Yet the proposal for discussing the substance of a draft constituent document has not achieved consensus. As already discussed, the main concern expressed relates to the loss of flexibility that might result from the adoption of an OSCE constituent document, an argument that was deemed irrelevant early on, as a majority of participating States have unequivocally stated that any constituent document should not alter the current status of the OSCE and the nature of its political commitments, nor affect the flexibility of the Organization or the autonomy and functioning of the OSCE executive structures.¹²⁶ The US has questioned whether the IWG has a mandate to discuss the draft constituent document, although the principles for a discussion on a constituent document for the OSCE, issued in 2011, clearly state that “discussions should be conducted by a technical working group consisting of legal experts” and that “the results should be brought to the attention of the Informal Working Group [...]”.¹²⁷

All in all, the topic of a constituent document “has become overly politicised”, underlined the Irish Chair in 2012.¹²⁸

Option 3: “Convention Plus”/Statute

This option involves the reopening of the 2007 DC with a view to including within it provisions of statutory/constitutional character for the OSCE, so that the new document (colloquially called “Convention Plus”) would contain provisions of a statute for the OSCE (e.g. functions and structure of the Organization) in addition to the provisions on privileges and immunities of the 2007 DC. The elaboration of the “Convention Plus” would also necessitate some amendments to the final provisions of the DC, including the consensus requirement for its entry into force.

In order to minimize the potentially adverse consequences of a wider reopening of the DC, the participating States have been advised to clearly define the scope of intervention in the text of 2007 by indicating that only amendments or additions necessary for its transformation into a statute would be subject to further negotiations.¹²⁹

126 “It is worth adding that the argument put forward in the past, according to which a constituent treaty recognizing the intergovernmental character of the OSCE would result in depriving it of its flexibility, is not regarded as relevant: it is not the legal instrument as such that confers flexibility to an entity, but the mandate attributed to this entity and the means given to it for the performance of its activities that make it flexible or not”, *The OSCE’s Legal Capacity and Privileges and Immunities*, cited above (Note 45), para. 11.

127 *Principles for a discussion on a Constituent Document*, cited above (Note 66).

128 *Chairmanship (Ireland) Food for Thought Paper*, cited above (Note 73).

129 Cf. CIO.GAL/46/15, 8 April 2015.

On 2 October 2014, the Swiss Chairmanship circulated a draft “Convention Plus/Statute”,¹³⁰ which was slightly amended in 2015 at the request of the OSCE Parliamentary Assembly.

Option 4: Implementation of the 1993 Rome Decision through Signature and Ratification of the 2007 Draft Convention

In this option, participating States would sign and ratify the DC as a means of implementing the commitments made in the 1993 Rome Ministerial Decision without the need for a further Ministerial decision, an option that was already foreseen by the Austrian Chairmanship in 2000.¹³¹ Those participating States that find the DC problematic – for whatever reason – are of course under no compulsion to become a party and remain free to meet their 1993 commitment in some other fashion.

This option was summarized by the Swiss Chairmanship in a non-paper circulated on 2 October 2014. Previously, Switzerland had suggested, as an “interim” step meant to bridge uncertainties of the legal status of the OSCE and its Institutions pending a comprehensive resolution of this issue, updating the 1993 Rome decision to take into account the significant level of transformation that the OSCE had undergone during the previous two decades.¹³² As a follow-up to the meeting of the IWG held on 11 July 2014, the Swiss Chairmanship has also conducted a survey among participating States to see which national measures have been taken to implement the Rome decision and which participating States have undertaken to provisionally or de facto apply the 2007 DC.¹³³

The Secretary General’s Initiative: The Model Standing Arrangement

In 2000, the Austrian Chair had suggested the adoption by the Ministerial Council of a model bilateral agreement between the OSCE and each participating State, conferring legal capacity and privileges and immunities on the Organization.¹³⁴ Provisions contained in the model agreement could be adjusted according to the privileges and immunities to be granted by the participating State, depending on whether or not it hosted an institution or a mission.

This solution presents several advantages. The “bilateral” approach would be a compromise between unilateral action (by granting legal capacity and privileges and immunities under domestic law) and multilateral action

130 Attached to CIO.GAL/173/14, 2 October 2014.

131 Cf. *OSCE Legal Capacity and Privileges and Immunities, Report of the Permanent Council to the Ministerial Council*, Annex to PC.DD/50/00, 23 November 2000, para. 6.

132 Cf. CIO.GAL/108/14, cited above (Note 122), and CIO.GAL/173/14, cited above (Note 130).

133 Cf. CIO.GAL/152/14, 29 August 2014.

134 Cf. CIO.GAL/114/00, cited above (Note 48), annex 2.

(by ratifying a convention on legal capacity and privileges and immunities). By concluding such an agreement with the OSCE, the participating State concerned would implicitly recognize that the Organization has the capacity to conclude it. This would be a de facto implicit recognition of the OSCE's legal personality under international law, which could also be explicitly provided for in the agreement. As a party to the bilateral agreement, the OSCE would be in a stronger position to request its due application.¹³⁵

In 2015, Secretary General Lamberto Zannier who, as Chief Administrative Officer faces the operational impact of the OSCE's current legal status on a daily basis, proactively introduced a model bilateral Standing Arrangement, bringing the status of the OSCE to the bare minimum needed to carry on its missions. The model was proposed to the participating States in Vienna in July 2015. It provides an interim solution, based purely on the serious operational need to protect OSCE officials and assets in states where no national measures have been adopted in favour of the OSCE. It is a separate track from the ongoing political/legal discussions in the Informal Working Group.

The text of the Standing Arrangement¹³⁶ grants, among other things: legal capacity to the OSCE, inviolability of its premises and archives, immunity from jurisdiction and tax and customs exemptions, as well as privileges and immunities to representatives of participating States attending OSCE meetings, to members of the Parliamentary Assembly and officials of its Secretariat, to experts on mission, and to OSCE officials without distinction as to nationality. Once the Standing Arrangement was concluded and in force, it would cover the OSCE and any of its activities on the territory of the host state, including project implementation, meetings, election monitoring, etc.

At the meeting of the IWG on 29 April 2016, Poland indicated it would accelerate talks about an agreement on the status of the OSCE, including ODIHR in Warsaw, based on the draft Standing Arrangement proposed by the Secretary General. However, beyond this specific case, this creative option might, unfortunately, face the same reservations as the DC. Some delegations had already rejected this option in 2000, as they considered that international establishment of the legal personality of the OSCE was a precondition for the conclusion of bilateral agreements.¹³⁷ At the meeting of the IWG on 29 April 2016, the Russian Federation stated once again that the OSCE's legal personality should be subject of a collective agreement, and that it did not see the Standing Arrangement as part of the solution.

135 Cf. *The OSCE's Legal Capacity and Privileges and Immunities*, cited above, (Note 45), para. 23.

136 The text can be found under SEC.GAL/135/16, 8 September 2016.

137 Cf. *OSCE Legal Capacity and Privileges and Immunities, Report of the Permanent Council to the Ministerial Council*, cited above (Note 131), para. 4.

“The case of the OSCE is not a success story in terms of transforming a political entity into a legal one.”¹³⁸

Despite long-lasting attempts to formalize its institutional structure, the OSCE’s legal status remains an open issue. More than 40 years after the Helsinki Accords, the OSCE is still “in a sort of limbo, outside the realm of international law”.¹³⁹ The issue might well be seen as an element of an “identity crisis” regarding the “nature” of the Organization.¹⁴⁰

The uniqueness of the OSCE does not lie in its incomplete legal status, which is something shared by several other international organizations. It is a result of the fact that the participating States themselves (or at least some of them) deny the OSCE, for political reasons, the character of an international organization and hold it in a state of “legal minority”. As the International Law Commission rightly underlined, “[OSCE] member States *insisted* that there was no treaty concluded to that effect”.¹⁴¹ This makes the OSCE unique, as other international organizations have managed to overcome their initial lack of a legal foundation and evolved towards more solidity and efficiency, even if it took decades. At a time where new types of threat weigh on the security of the Euro-Atlantic region, purposely depriving a useful forum from common and clear rules about status, privileges, and immunities should be seen as “clearly unacceptable”.¹⁴²

The lack of legal personality causes damage to the OSCE’s reputation, since other regional or international organizations may fail to take the OSCE seriously as a proper organization or, in some cases, may be unable to deal with the OSCE as a partner. In a context of increased competition and overlap among the memberships, mandates, and capacities of the international and regional organizations acting in the Euro-Atlantic region, it creates uncertainties regarding the OSCE’s ability to implement projects, as compared with other organizations.¹⁴³ While these problems mainly affect the OSCE itself, they also create problems for the participating States, which cannot conclude agreements with the OSCE, are unclear as to the liability of the Or-

138 Cf. Tufan Höbek, *Legal Attributes of International Organizations in the Absence of a Constituent Legal Document. The Case of the OSCE*, dissertation proposal (“exposé”), University of Vienna, 2011, p. 2.

139 Odello, cited above (Note 22), p. 354.

140 Cf. Alexander Matveev, *The OSCE Identity Crisis*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1999*, Baden-Baden 2000, pp. 59-78, here: p. 59.

141 United Nations, *Report of the International Law Commission, Sixty-first session*, cited above (Note 8), p. 45. Emphasis added.

142 Ambassador John Bernhard, Special Advisor of the OSCE Chairperson-in-Office on the Legal Framework, at the OSCE Parliamentary Assembly’s seminar on “The OSCE’s Lack of Legal Status”, held on 27 April 2015 in Copenhagen, cited in: OSCE, Press Release, *Time to tackle the OSCE’s lack of legal status, say participants at Helsinki +40 seminar*, Copenhagen, 28 April 2015, at: <http://www.osce.org/pa/154186>.

143 Cf. *1st Meeting of the Group of Legal Experts*, cited above (Note 77).

ganization, encounter difficulties ensuring the necessary allocations in their national budgets for an organization whose legal status is contested, and have difficulty granting privileges and immunities to such an organization.

A de jure recognition of the OSCE's legal personality would go a long way towards enabling the Organization to perform effectively and efficiently the mandates assigned to it by its participating States, solidifying its crucial role in the European security architecture. It would create a more uniform operating environment, remove the current need to negotiate bilateral agreements with individual participating States and spell out privileges and immunities. It would undoubtedly strengthen the security and legal protection of OSCE personnel in the field, especially those working in "difficult areas", and help to limit risks connected with complicated technical projects. It would erase any doubts that may remain as to the role and work of the OSCE as a regional security organization under Chapter VIII of the UN Charter; allow for proper risk assessment and the limitation of potential liabilities that participating States or OSCE officials could face; and enhance the OSCE's standing and facilitate smoother co-operation with other international organizations.

Rules can offer certainty, consistency, clarity and a framework for activities. Those who work with you find it easier to co-operate with you. Those who want to work with you can rely on your status. And those who work for you understand their obligations towards you and your obligations towards them.¹⁴⁴

Ultimately, the matter at issue is legal protection for human safety and security – both of the 3,000 individuals who are dedicated to delivering the OSCE's mandate and of the several million individuals who are hoping to be the beneficiaries of the OSCE principles and commitments: peace and security across the OSCE region – from Vancouver to Vladivostok – economic development, environmental protection, democracy, and human rights. "The OSCE owes it to all of its staff to resolve the question of its legal personality", as rightly underlined by the Panel of Eminent Persons on European Security as a Common Project.¹⁴⁵

On 13 July 2016, the Max Planck Institute for Comparative Public Law and International Law convened a one-day international conference in Berlin. Under the heading "Between Aspirations and Realities: Strengthening the Legal Framework of the OSCE", the conference aimed to provide a new impetus to the debate on strengthening the legal framework of the OSCE. Contrary to Sisyphus, who must struggle perpetually and without hope of suc-

¹⁴⁴ Brander, cited above (Note 72), p. 19.

¹⁴⁵ *Lessons Learned for the OSCE from Its Engagement in Ukraine*, Interim Report and Recommendations of the Panel of Eminent Persons on European Security as a Common Project, June 2015, p. 11, at: <http://www.osce.org/networks/164561>.

cess, such ongoing discussion and reflection prove there is still momentum and an opportunity for the OSCE to become a truly international organization, with the status and privileges it deserves. But “we need a political shock in the OSCE right now, particularly if we are to finally resolve the legal question. Otherwise, we could very well become irrelevant”.¹⁴⁶

¹⁴⁶ Project Chair João Soares (MP, Portugal) at the opening of the OSCE Parliamentary Assembly’s seminar on “The OSCE’s Lack of Legal Status”, held on 27 April 2015 in Copenhagen, cited in: *Time to tackle the OSCE’s lack of legal status, say participants at Helsinki +40 seminar*, cited above (Note 142).

External Relations and Influence

What Is Central Asia for China? A Chinese Perspective

Introduction: The Region of Central Asia

An area rich in natural resources and located at the heart of the Eurasian continent, Central Asia's geopolitical, geo-economic, and geostrategic significance grew enormously when the region's states gained independence following the dissolution of the Soviet Union. Central Asia is where the interests of at least three major regional and world powers, namely, China, Russia, and the USA, intersect. These great powers try to project their influence and guarantee their own interests, making the region the setting for both co-operation and competition. Nostalgic for the USSR, Russia still considers Central Asia to belong to its sphere of interests, while most of the Central Asian countries are still politically dependent on Russia to a great extent, and act as a buffer between Moscow and Beijing. For the USA, post-Soviet Central Asia has become a significant arena for spreading democracy and fighting international terrorism – both the variety imported from Afghanistan and tendencies for radicalization and Islamization within Central Asia itself. There is a great deal of bilateral co-operation between the USA and Central Asian countries in the field of counterterrorism, in particular.¹ No less importantly, Central Asia became central to China after the adoption by Beijing of the “reform and opening-up” policy and the dissolution of the Soviet Union. China is not only trying to diversify its imports of natural resources while connecting itself with Europe through Central Asia via the “One Belt, One Road” initiative, but by contributing to the stabilization and security of Central Asia, Beijing is also attempting to stabilize and economically develop its troublesome western provinces.

In recent decades, scholars and politicians have been confronted with questions concerning the role, interests, and place of China in international relations² as well as China's growing regional role, particularly in Central Asia. This also raises the question of Central Asia's importance for China. Due to the long-standing influence of the USSR – and later Russia – on Central Asia, there is a widespread perception of China as a “newcomer”³ in the

1 Cf., for example, the websites of the Asia-Pacific Center for Security Studies, at: <http://www.apcss.org>, and the US Department of State, at: <http://www.state.gov/p/sca/rls/rmks/2012/182643.htm>, on US policy in Central Asia and the co-operation between the USA and Central Asian states in the field of counterterrorism.

2 Cf. Anton E. Maltsev, *Osobennosti politiki KNR v Tsentralnoi Azii v otsenkakh rossiiskikh i zapadnykh uchenykh* [Features of Chinese policy in Central Asia in the assessment of Russian and Western scientists], in: *Sravnitel'naya politika i geopolitika* 4/2012, pp. 17-31, here: p. 17.

3 Cf., for example, European Parliament, Directorate-General for External Policies, *Old games, new players: Russia, China and the struggle for mastery in Central Asia*, August

region. However, this is only partially true. The strengthening of bilateral relations between China and the Central Asian countries, China's active role within the Shanghai Cooperation Organization (SCO), growing Chinese interest in Central Asian energy resources and markets, implementation of the One Belt, One Road initiative, all these are the indicators of China's growing involvement in the region since the dissolution of the Soviet Union. Nevertheless, the traditional and special relations that have existed for thousands of years between China and Central Asia, which have their roots in the ancient Silk Road and provided a basis not only for co-operation but also for mutual learning,⁴ should also be taken into account.

Given the lack of European scholarly discourse on the general issue of the importance of Central Asia for China, I would like to briefly introduce the Chinese viewpoint in this regard.

Key Phases in Chinese-Central Asian Relations

For China, Central Asia represents not only ca. 3,300 km⁵ of common borders (with Kazakhstan, Kyrgyzstan, and Tajikistan) – which means that China, like no other country, is located in the immediate proximity of several Central Asian countries⁶ – but also a set of neighbours and co-operation partners with a history of mutual economic and cultural exchange. This geographic proximity also explains why Central Asia has a very high geopolitical, geo-economic, and security importance for China, especially in the light of the terrorist threats currently emanating both from Afghanistan via the Central Asian states and directly from the Central Asian states themselves, and the activities of separatists in China's Xinjiang Uyghur Autonomous Region, which often receive support from Central Asian countries to the concern of the Chinese government.⁷

Beijing has traditionally placed a high priority on relations with Central Asia as part of China's overall strategy of building good and friendly rela-

2012, at: [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO-INTA_SP\(2012\)491436](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO-INTA_SP(2012)491436).

4 Cf. Sun Zhuangzhi, *The Relationship between China and Central Asia*, in: Iwashita Akihiro (ed.), *Eager Eyes Fixed on Eurasia, Vol 1: Russia and Its Neighbors in Crisis*, Slavic Eurasian Studies No. 16-1/2007, pp. 41-63, available at: http://src-h.slav.hokudai.ac.jp/coe21/publish/no16_1_ses/contents.html.

5 Cf. Zhang Ning, *Zhuanjia jieshao: zhongguo yu zhongya guojia jiaowang hezuo san jieduan* [Experts: Three Stages of China's Trade and Co-operation Relations with the Countries of Central Asia], *Renminwang – zhongguo gongchandang xinwenwang*, 7 September 2013.

6 Cf. Zhao Huasheng, *Qianping zhongmei sanda zhanlue zai zhongya de gongchu* [A Brief Comment on the Coexistence of the Three Great Strategies of China, Russia and the USA in Central Asia], in: *Guoji-guancha* 1/2014, pp. 96-109, here: p. 105.

7 Cf. Luba v. Hauff, *A Stabilizing Neighbor? The Impact of China's Engagement in Central Asia on Regional Security*, *DGPanalyse* 3/2013.

tions with neighbouring states.⁸ And since the dissolution of the Soviet Union, this relationship has only grown in importance.

After the dissolution of the Soviet Union, China immediately recognized the newly independent Central Asian states and started developing co-operation with them. This co-operation can be divided into three phases, each lasting approximately ten years.

The first stage, from 1991 to 2000, was characterized by the resolution of issues left over from Soviet times, namely, border demarcation and the strengthening of border security. These issues were successfully resolved in the late 1990s within the “Shanghai Five” framework, with the key agreements being signed between China and the Central Asian countries in 1996 (Agreement Between Russia, Kazakhstan, Kyrgyzstan, Tajikistan and China on Confidence-Building in the Military Field in the Border Area, signed in Shanghai) and in 1997 (Agreement on Mutual Reduction of Military Forces in Border Areas between China, Russia, Kazakhstan, Kyrgyzstan and Tajikistan, signed in Moscow).⁹ This led not only to a historically rare instance of border issues being resolved peacefully, but also created a solid foundation for further co-operation between China and the Central Asian countries based on friendship and trust.

The second phase of the relationship, from 2001 till 2010, is considered the most fruitful period in Chinese-Central Asian relations, and is marked by intensified anti-terrorism co-operation, the creation of the SCO in 2001, and rapidly intensified economic co-operation as a result of which China became one of the region’s largest investment and trading partners, as the volume of visible investments and trade rose from 1.509 billion US dollars in 2001 to 45.94 billion in 2012. During this period, Central Asia became one of the most important oil suppliers to China and one of the main destinations for Chinese foreign investment.¹⁰

The third phase started in 2011 and is ongoing. Its main characteristics are intensified and deepened co-operation and the opening of co-operation in new areas, such as education, science and technology, culture, the environment, and agriculture. This is alongside the co-operation within the framework of the One Belt, One Road initiative.

8 Cf. David Lamoureux, The Shanghai Cooperation Organization: Assessing China, in: *Journal of Energy Security*, 14 December 2001, at: http://www.ensec.org/index.php?Itemid=386&catid=121:contentenergysecurity1111&id=331:the-shanghai-cooperation-organization-assessing-chinas-energy-strategy-in-central-asia&option=com_content&view=article.

9 Cf. Zhang, cited above (Note 5).

10 Cf. *ibid.*

As outlined above, in the last few decades, China's relations with Central Asia have moved quite rapidly from successfully resolving border issues, safeguarding borders, and co-operating in the field of fighting terrorism, towards establishing the main priority of Chinese policy toward Central Asia as strengthening economic and political ties.¹¹ In substantive terms, we can say that there are at least three dimensions to the relationship:

Geostrategy and Security

Central Asia has major geostrategic and security significance for China. China's neighbours in the region include states where Islamic radicalization and terrorism, a lack of political stability, and growing nationalism have become more evident in recent years.¹² These circumstances encourage China to co-operate with Central Asian states and Russia on security-related issues, including countering terrorism, both bilaterally and within regional organizations such as the SCO.

Yet another dimension of security with huge political relevance for China is the issue of Uyghur minorities living in China's Xinjiang Uyghur Autonomous Region. Xinjiang borders Kyrgyzstan, which also has a small population of Uyghurs, and the East Turkistan Liberation Organization (ETLO) is carrying out separatist activities in both countries.¹³ For China, this issue is most relevant in terms of the threat of domestic terrorism. At the same time, however, there is a possibility of this Chinese province becoming home to terrorists from neighbouring countries. As well as terrorist activities, the main threat Uyghurs pose is their separatism activities, based on their desire to establish their own state, named East Turkistan. The Chinese government is very sensitive to issues of separatism, whether with reference to the Uyghurs, Tibetans, or Taiwanese, and views separatist endeavours as a direct threat not only to the political system but to the existence of the state itself.

China is disturbed by the support provided by Central Asian states for Uyghurs and their separatist activities, and to counteract this, often exercises pressure on Central Asian countries where Uyghur activities are most evident, particularly Kyrgyzstan. A case in point is when Kyrgyz courts, under pressure from China, convicted a number of Uyghur individuals of terrorist bombing and attempting to establish a branch of the Uyghur separatist movement in Kyrgyzstan,¹⁴ banned several organizations and political par-

11 Cf. Maltsev, cited above (Note 2), here: pp. 17-18.

12 Cf. Mariya Y. Omelicheva, *Counterterrorism Policies in Central Asia*, London 2011.

13 Cf. Mariya Y. Omelicheva, Convergence of Counterterrorism Policies: A Case Study of Kyrgyzstan and Central Asia, in: *Studies in Conflict & Terrorism* 10/2009, pp. 893-908, here: pp. 899-900.

14 Cf. *ibid.*, p. 889.

ties, including the ETLO,¹⁵ and shut down a number of newspapers in Kyrgyzstan.¹⁶ China has also been using the SCO and the SCO Convention on Counterterrorism to influence the Central Asian states on the issue of Uyghur separatism and terrorism. In accordance with the Convention, Uyghurs in Central Asia were prosecuted by the local courts and extradited to China.¹⁷

Various factors led China to accept religious extremism as a danger on a par with terrorism, even though it has few problems with it, and Central Asia to do the same with regard to separatism, which is not really an issue there. These factors include geographical proximity, political and – to some extent – cultural similarities, plus a certain dependence, or more accurately, economic and even political benefits that Central Asian states could gain from good and healthy relations with China, not to mention the need to face common challenges. This is why, within the SCO framework, the “three evils” – terrorism, separatism, and religious extremism – are always addressed together by the member states.

Economic Co-operation

Of all the forms of co-operation between China and Central Asian countries, economic co-operation has probably been most discussed in the recent scholarship, especially after the announcement of the One Belt, One Road initiative by China. Central Asian countries are crucial to China’s plans to connect itself more effectively to Europe. China also has pragmatic interests in diversifying its imports of natural resources and acquiring access to Central Asian resources and markets. At the same time, deepening economic relations with Central Asia is part of the Chinese foreign policy of strengthening good neighbourly relations and the earlier policy of performing a leading role among developing countries.

Since the proposal, first of the “Silk Road Economic Belt” initiative in September 2013,¹⁸ and then of the One Belt, One Road initiative in Autumn 2014 by President Xi Jinping,¹⁹ Chinese economic and other activity in Central Asia has grown. This has aroused both positive interest and concern in the countries of the region and the international community with regard to China’s intentions and depth of involvement in the region. Even prior to these initiatives, but after the increase in China’s economic presence and the provision of aid to Central Asia, the leaders of some Central Asian countries,

15 Cf. Elmurad Zhusupaliyev, *Zakon o borbe s ekstremizmom prinyat v Kyrgyzstane* [The law on combating extremism, adopted in Kyrgyzstan], Fergana.ru, 7 September, 2005.

16 Cf. Chung Chien-peng, The Shanghai Co-operation Organization: China’s Changing Influence in Central Asia, in: *The China Quarterly*, December 2004, pp. 989-1009, here: p. 999.

17 Cf. Omelicheva, cited above (Note 12), here: pp. 61-62.

18 Cf. Zhao, cited above (Note 6), here: p. 98.

19 Cf. Pan Zhiping, *Zhongya diyuan zhengzhiboyi ji qi xindongxiang* [New Trends in the Geopolitical Game in Central Asia], in: *Shihezi daxue xuebao (zhexue shehui kexueban)* 2/2015, pp.1-3, here: p. 3.

while welcoming Chinese involvement, also started expressing “a common fear that China’s financial aid might be a poisonous gift, that with this soft power, Chinese investments might lead to economic dependency and political vassalage”.²⁰

The One Belt, One Road initiative is often viewed in the light of political and scholarly debates on the role of China not only in the region but in the whole system of international relations. It is even considered by some to be an aspect of China’s “new world order politics”, about which much is not yet known,²¹ but which is sometimes considered as a challenge to the Western world order.²² But what do Chinese scholars and officials say with regard to this initiative, as well as to the role of Central Asia in it and in Chinese foreign policy in general?

One Belt, One Road and the Role of Central Asia in China’s Foreign Policy

For the Chinese, the ancient Silk Road has a rich historical and cultural value, representing the necessity and inevitability of the blending of European and Asian civilizations, and the rules for exchange between them. It is considered a successful example of mutually beneficial co-operation and exchange between two parts of the world – and a model for the present, according to the Chinese viewpoint. One Belt, One Road thus has deep historical roots, accumulated cultural capital, and continuity. The main goal of this initiative is further co-operation with the Eurasian space and the creation of a community of common interests among all the countries in the region.²³

A shared cultural heritage and common challenges and problems explain the differences in China’s behaviour towards Central (and East) Asian countries compared to other regions. Chinese experts on Central Asia and Russia stress the important role that Central Asia, as a neighbouring region, plays for China. However, this does not imply that China will apply special political principles and policies towards the Central Asian countries, although certain policies in this region differ from those in other regions, due to the geographic and strategic location of Central Asia. Nor does it mean that Central Asia is more important for China than other regions it co-operates with. Furthermore, according to the experts, this initiative is not limited to Central Asia, but also applies to other Asian, European, and African regions included in the One Belt, One Road initiative.²⁴

20 Lamoureux, cited above (Note 8).

21 Cf. Maltsev, cited above (Note 2), on discourses among Russian, European, and American scholars with regard to the place of China in the international relations system and China’s foreign and global policy, here: pp. 17-18.

22 Cf. Nadine Godehardt, *No End of History. A Chinese Alternative Concept of International Order?* SWP Research Paper 2016/RP 02, January 2016.

23 Cf. Xing Guangcheng, *Sichouzhilu de lishi jiazhi yu dangdai qishi* [Historical Value and Modern Enlightenment of the Silk Road], in: *Guangming ribao*, 20 October 2014.

24 Cf. *The Silk Road Project and Strategic Interests of Russia and China*, Russian International Affairs Council, 20 December 2013 (Interview with Zhao Huasheng), at: http://russiancouncil.ru/en/inner/?id_4=2884.

Officially, China proclaims that it seeks to promote regional co-operation and good-neighbourly relations with its neighbouring countries to promote harmonious Asia, calling for mutual respect and trust regardless of differences: “China [...] does not] want to exclude any country from participating in regional cooperation. China’s prosperity, development and long-term stability represent an opportunity rather than a threat to its neighbors.”²⁵ China views deepening co-operation with its neighbouring countries as an important part of its efforts to contribute to the maintenance of a stable and peaceful security situation in the region.²⁶

Acknowledging this, some Chinese scholars nevertheless argue that Chinese relations with Central Asia and the One Belt, One Road initiative help China to promote its international image and increase its influence in the region,²⁷ while falling short of trying to create a Chinese sphere of interest in Central Asia. Having good relations with countries that not only share similar traditions and history, but also possess similar political systems, namely non-democratic ones,²⁸ is also beneficial for the image of Chinese regime within its own country.

As well as maintaining bilateral political relations with the Central Asian countries, China also co-operates with them in regional organizations such as the SCO. The general view among Chinese scholars is that the SCO provides a good platform for co-operation between China and its partners, forging understanding and allowing them to collaboratively address common threats and fears. For China, participation in multilateral institutions and organizations is somewhat double-edged. On the one hand, it benefits China by allowing it to appear as an active and responsible player, to demonstrate its peaceful intentions and thus diminish the perceptions by others of China as a threat. China can also show its “commitment to diplomatic solutions to problems and to defuse the possibility of neighbouring states ‘ganging up’ on China, even as it becomes a stronger political, economic and military power”.²⁹ On the other hand, China has sometimes had to sacrifice its traditional bilateral relations and try to resolve issues – even some that China is sensitive about – at the multilateral table, though the most sensitive issues,

25 Information Office of the State Council of the People’s Republic of China, *China’s Peaceful Development*, White Paper, 6 September 2011, III. China’s Foreign Policies for Pursuing Peaceful Development at: http://www.china.org.cn/government/whitepaper/node_7126562.htm.

26 Cf. Xia Liping, How China thinks about national security, in: Ron Huisin (ed.), *Rising China: Power and Reassurance*, March 2009, pp. 103-118, here: p. 107, at: <http://press.anu.edu.au/?p=61661>.

27 Cf. interview with Zhao, cited above (Note 24).

28 Here Kyrgyzstan is something of an exception thanks to its efforts at democratic development, but even Kyrgyzstan cannot yet be considered a typical democracy in practice.

29 Bates Gill, China’s new security multilateralism and its implications for the Asia-Pacific region, in: Stockholm International Peace Research Institute (ed.), *SIPRI Yearbook 2004*, Oxford 2004, pp. 207-230, here: p. 230.

such as those relating to Chinese sovereignty and the integrity of the state, will still be resolved by China on a bilateral basis.

The Coexistence of Chinese, Russian, and American Initiatives: Co-operation Versus Competition – Is There a Risk of Open Confrontation?

When talking about relations between China and Central Asia, it is important to take into consideration the bigger picture, namely the interaction and co-existence of several major regional and world powers, China, Russia, and the USA, in this region. As already been mentioned above, there are currently at least three independent economic and political initiatives involving Central Asian states that have been proposed by three different and competing powers, China (One Belt, One Road), Russia (Eurasian Economic Union, EAEU) and the USA (“New Silk Road”, or “Silk Road Strategy”). The fact that these initiatives exist shows the huge interest in and importance of Central Asia for these countries. It also shows that, unlike during the Cold War, great powers nowadays cannot afford to underestimate small and middle-sized powers or merely use them as means to pursue their own goals in the global game, but rather need to engage them by means of fair competition and the provision of appealing offers. Due to its peculiar geographic and strategic location, Central Asia is in a situation where it can choose the best for itself from the available alternatives. Central Asian countries are seeking to increase their political and economic independence while also attempting to gain the support of the great powers, maximizing the economic and political benefits of this without coming too much under external influence or control. The coexistence of the three different initiatives provides the perfect conditions for Central Asia to gain maximum benefits while evading direct control.

But what is the Chinese perspective on the co-existence of these three initiatives, and how does China view its own prospects in Central Asia?

Chinese Central Asia and Russia scholars forecast that political competition will grow, but will not lead to direct confrontation. The three main powers in the region will either deepen their competition and confront each other, or the three existing initiatives will merge into one another in the form of economic co-operation. The latter scenario is seen as the most desirable one, because it will benefit every participating party. At the same time, Chinese experts believe that regardless of which of the initiatives wins, Central Asia will be integrated by transport networks and other infrastructure.³⁰

The maintenance of friendly and peaceful mutual relations is crucial for both China and Russia. Chinese influence on and involvement in Central Asia, which Russia traditionally considers as part of its own sphere of inter-

30 Cf. Zhao, cited above (Note 6), here: p. 109.

ests, might trigger some dissatisfaction from Moscow. Officially, after announcing the Chinese initiative, President Xi stated that China did not seek to establish a sphere of influence or dominance in the region and called for co-operation with Russia. This message aimed at showing Moscow that China does not intend to challenge Russia in the Central Asian region, but rather to work together or in parallel in a co-operative atmosphere. Chinese scholars, probably also in order to diminish any concern at China's possible desire to transform Central Asia into a Chinese sphere of interest, have also stated that relations between China and Central Asia are a normal part of Chinese diplomacy and overall foreign policy.³¹

According to Chinese regional experts, the creation and implementation of the One Belt, One Road initiative does not contradict the EAEU, but is rather a complementary effort that enhances mutual co-operation within Central Asia and between Europe and Asia.³² This has even become the official position of the SCO, whose members include both Russia and China. The SCO officially supports and has recently intensified its focus on the Chinese One Belt, One Road initiative and the Russian EAEU project.³³

In the Chinese view, the three initiatives, including the American New Silk Road, can co-exist peacefully and be complementary, because their combined advantages can lead to fruitful win-win co-operation in which the weaknesses of each can be compensated for by the strengths of the others. The strength of the American New Silk Road initiative lies in its relatively balanced internal political structure, in which there are no leading countries and ordinary participants, and the Central Asian countries, Afghanistan, and the Southeast Asian countries perform equal roles. The EAEU is strong due to the existing political ties between Central Asia and Russia dating back to Soviet times, but Russia lacks economic strength, while China is undoubtedly the strongest economic player in the region. At the same time one of the disadvantages of the One Belt One Road initiative, as stated by the Chinese experts, is the lack of consideration for humanitarian issues in these relations. There is also a disconnect and even conflict between the image of China and its proclaimed goals in Central Asia. This is not only based on historical factors and misinterpretations of China's intentions and actions by Central Asian states, but is also a result of some unhelpful Chinese strategies and rhetoric with regard to its co-operation with Central Asia, as well as the issue of the "China threat".³⁴ Chinese experts believe that the Central Asian elite does not have a deep enough understanding of China; they look forward to the further

31 Cf. interview with Zhao, cited above (Note 24).

32 Cf. *ibid.*

33 Cf. Eleanor Albert, *The Shanghai Cooperation Organization*, Council on Foreign Relations, CFR Backgrounders, 14 October 2015, at: <http://www.cfr.org/china/shanghai-cooperation-organization/p10883>.

34 For more on China's image in Central Asia and how to improve it see, Zhao Huasheng, *Xinxiang jianshe: Zhongguo shenru zhongya de bijing zhilu*, [Image Building: The Only Way for China to Penetrate into Central Asia], in: *Xinjiang shifan daxue xuebao (Zhesheban)* 4/2015, pp. 65-75.

economic involvement of Beijing in the region, while nonetheless expressing their deep concerns about it. In the short term, the Russia-led EAEU seems to have more opportunities for success, while in the long-term the Chinese One Belt, One Road project has the greatest potential.³⁵

In political terms, the One Belt, One Road initiative is permeated with the idea of peaceful coexistence, proclaimed to promote mutually beneficial co-operation for all participants, and open to membership for every state in Europe and Asia. As a space of co-operation embracing all the countries willing to participate in it, the initiative aims to promote peace and development. Issues such as the Ukraine crisis, whose resolution requires multilateral talks and compromises, would be minimized if Ukraine would participate in such Eurasian initiatives and was not conditioned to choose between “East” and “West”. At the same time, it has been clearly stated that this initiative cannot be imposed on any country, nor can it promote the interests of just one country. The infrastructural and technological achievements of the 21st century have created perfect conditions for the implementation of the One Belt, One Road initiative, and now what is needed is the spirit of mutually beneficial co-operation and sharing ideas of mutual benefit.³⁶

Concluding Remarks

China is highly interested in the preservation of a peaceful and stable situation in Central Asia because the stability of China, and especially its western provinces, is highly dependent on the stability of this region. This is why the key areas for the intensification of relations between China and Central Asia in the last two decades have been border security and preventing instability and suppressing the activity of separatists in China’s western provinces, especially Xinjiang Uyghur Autonomous Region. As far as economic co-operation with Central Asia is concerned, China is interested not only in access to natural resources and markets, but also in developing its western provinces and including them in regional and global markets, while also building comprehensive and co-operative relations with the states in the region that go beyond the pursuit of purely political or economic benefits.³⁷

35 Cf. Zhao, cited above (Note 6), here: p. 109.

36 Cf. Xing, cited above (Note 23).

37 Cf. Zhao, cited above (Note 24).

Annexes

Forms and Forums of Co-operation in the OSCE Area

Group of Seven (G7)

Organization for Economic Co-operation and Development (OECD)

Council of Europe (CoE)

North Atlantic Treaty Organization (NATO)

Euro-Atlantic Partnership Council (EAPC)

Partnership for Peace (PfP)

NATO-Russia Council

NATO-Ukraine Charter/NATO-Ukraine Commission

NATO Partners across the Globe

European Union (EU)

EU Candidate Countries

EU Association Agreements

Stabilisation and Association Agreements (SAA)

European Economic Area (EEA)

Comprehensive and Economic Trade Agreement (CETA)

Commonwealth of Independent States (CIS)

Eurasian Economic Union (EAEU)

Collective Security Treaty Organization (CSTO)

Baltic Assembly/Baltic Council of Ministers

Barents Euro-Arctic Council

Observers to the Barents Euro-Arctic Council

Nordic Council

Council of the Baltic Sea States (CBSS)

Regional Co-operation Council (RCC)

South Eastern European Co-operation Process (SEECP)

Central European Free Trade Agreement/Area (CEFTA)

Central European Initiative (CEI)

Black Sea Economic Co-operation (BSEC)

North American Free Trade Area (NAFTA)

Shanghai Cooperation Organisation (SCO)

Observer States to the SCO

SCO Dialogue Partners

Sources:

OECD: www.oecd.org
Council of Europe: www.coe.int
NATO: www.nato.int
EU: europa.eu
EEA: <http://www.efta.int/eea>
CIS: www.cis.minsk.by
EAEU: www.eaeunion.org
CSTO: www.odkb-csto.org
Baltic Assembly/Baltic Council of Ministers: www.baltasam.org
Barents Euro-Arctic Council: www.beac.st
Nordic Council: www.norden.org
CBSS: www.cbss.org
RCC: www.rcc.int
CEFTA: www.cefta.int
CEI: www.ceinet.org
BSEC: www.bsec-organization.org
NAFTA: www.naftanow.org
SCO: www.sectsco.org

The 57 OSCE Participating States – Facts and Figures¹

1. Albania

Date of accession: June 1991

Scale of contributions: 0.125 per cent (OSCE ranking: 40)²

Area: 28,748 km² (OSCE ranking: 46)³

Population: 3,038,594 (OSCE ranking: 41)⁴

*GDP per capita in international dollars at PPP rates:*⁵ 3,965

GDP growth: 2.56 per cent (OSCE ranking: 23)⁶

Armed forces (active): 8,000 (OSCE ranking: 43)⁷

Memberships and forms of co-operation: CoE (1995), NATO (2009), EAPC, EU Candidate Country, SAA (2009), RCC, SEECP, CEFTA, CEI (1996), BSEC.

2. Andorra

Date of accession: April 1996

Scale of contributions: 0.125 per cent (40)

Area: 468 km² (52)

Population: 85,660 (53)

GDP per capita in international dollars at PPP rates: 42,804⁸

GDP growth: 0.064 per cent⁹

Armed forces (active): none

Memberships and forms of co-operation: CoE (1994), special agreement with the EU.¹⁰

3. Armenia

Date of accession: January 1992

Scale of contributions: 0.05 per cent (49)

Area: 29,743 km² (45)

1 Compiled by Jochen Rasch.

2 Of 57 states.

3 Of 57 states.

4 Of 57 states.

5 The international dollar is the hypothetical unit of currency used to compare different national currencies in terms of purchasing power parity. PPP is defined as the number of units of a country's currency required to buy the same amounts of goods and services in the domestic market as one US dollar would buy in the United States. See *The World Bank, World Development Report 2002*, Washington, D.C., 2002. Because the data in this category comes from various years it does not make sense to compare states or provide a ranking.

6 Of 51 states.

7 Of 51 states.

8 2013.

9 2013.

10 1990 agreement establishing a customs union (covering industrial goods) and 2004 (partial) co-operation agreement.

Population: 3,051,250 (40)
GDP per capita in international dollars at PPP rates: 3,500
GDP growth: 3 per cent (18)
Armed forces (active): 44,800 (17)
Memberships and forms of co-operation: CoE (2001), EAPC, PfP (1994), EU-Armenia Partnership and Cooperation Agreement (1999), CIS (1991), Eurasian Economic Union, CSTO, BSEC, SCO Dialogue Partner.

4. Austria

Date of accession: June 1973
Scale of contributions: 2.51 per cent (13)
Area: 83,871 km² (29)
Population: 8,711,770 (24)
GDP per capita in international dollars at PPP rates: 43,439
GDP growth: 0.9 per cent (43)
Armed forces (active): 22,250 (28)
Memberships and forms of co-operation: OECD (1961), CoE (1956), EAPC, PfP (1995), EU (1995), RCC, CEI (1989).

5. Azerbaijan

Date of accession: January 1992
Scale of contributions: 0.05 per cent (49)
Area: 86,600 km² (28)
Population: 9,872,765 (22)
GDP per capita in international dollars at PPP rates: 5,496
GDP growth: 1.1 per cent (39)
Armed forces (active): 66,950 (13)
Memberships and forms of co-operation: CoE (2001), EAPC, PfP (1994), EU-Azerbaijan Partnership and Cooperation Agreement (1999), CIS (1991), BSEC, SCO Dialogue Partner.

6. Belarus

Date of accession: January 1992
Scale of contributions: 0.28 per cent (30)
Area: 207,600 km² (20)
Population: 9,570,376 (23)
GDP per capita in international dollars at PPP rates: 5,740
GDP growth: -3.9 per cent (50)
Armed forces (active): 48,000 (15)
Memberships and forms of co-operation: EAPC, PfP (1995), CIS (1991), Eurasian Economic Union, CSTO, CEI (1996), Observer State to the SCO.

7. Belgium

Date of accession: June 1973

Scale of contributions: 3.24 per cent (10)

Area: 30,528 km² (44)

Population: 11,409,077 (16)

GDP per capita in international dollars at PPP rates: 40,231

GDP growth: 1.4 per cent (35)

Armed forces (active): 30,800 (23)

Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958).

8. Bosnia and Herzegovina

Date of accession: April 1992

Scale of contributions: 0.125 per cent (40)

Area: 51,197 km² (37)

Population: 3,861,912 (38)

GDP per capita in international dollars at PPP rates: 4,198

GDP growth: 3.2 per cent (17)

Armed forces (active): 10,500 (39)

Memberships and forms of co-operation: CoE (2002), EAPC, PfP (2006), EU membership application,¹¹ SAA (2015), RCC, SEECP, CEFTA, CEI (1992).

9. Bulgaria

Date of accession: June 1973

Scale of contributions: 0.55 per cent (26)

Area: 110,879 km² (24)

Population: 7,144,653 (27)

GDP per capita in international dollars at PPP rates: 6,820

GDP growth: 3 per cent (19)

Armed forces (active): 31,300 (22)

Memberships and forms of co-operation: CoE (1992), NATO (2004), EAPC, EU (2007), RCC, SEECP, CEI (1996), BSEC.

10. Canada

Date of accession: June 1973

Scale of contributions: 5.53 per cent (7)

Area: 9,984,670 km² (2)

Population: 35,362,905 (11)

GDP per capita in international dollars at PPP rates: 43,249

GDP growth: 1.1 per cent (40)

Armed forces (active): 66,000 (14)

11 On 15 February 2016 Bosnia and Herzegovina officially submitted its application for EU membership. See: http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU_6.5.2.html.

Memberships and forms of co-operation: G7 (1976), OECD (1961), NATO (1949), CETA,¹² EAPC, Observer to the Barents Euro-Arctic Council, RCC, NAFTA.

11. Croatia

Date of accession: March 1992

Scale of contributions: 0.19 per cent (33)

Area: 56,594 km² (36)

Population: 4,313,707 (37)

GDP per capita in international dollars at PPP rates: 11,536

GDP growth: 1.6 per cent (30)

Armed forces (active): 16,550 (34)

Memberships and forms of co-operation: CoE (1996), NATO (2009), EAPC, EU (2013), RCC, SEECP, CEI (1992).

12. Cyprus

Date of accession: June 1973

Scale of contributions: 0.19 per cent (33)

Area: 9,251 km² (50)¹³

Population: 1,205,575 (48)¹⁴

GDP per capita in international dollars at PPP rates: 22,957

GDP growth: 1.6 per cent (33)

Armed forces (active): 12,000 (37)¹⁵

Memberships and forms of co-operation: CoE (1961), EU (2004).

13. Czech Republic

Date of accession: January 1993

Scale of contributions: 0.57 per cent (25)

Area: 78,867 km² (30)

Population: 10,644,842 (19)

GDP per capita in international dollars at PPP rates: 17,231

GDP growth: 4.2 per cent (6)

Armed forces (active): 21,700 (30)

12 As a rule, the European Council/Council of the European Union decides by a qualified majority pursuant to Article 218 (5) TFEU on the provisional application of international agreements before their entry into force. The failure of ratification in a Member State of the EU is not sufficient to end the provisional application of an international agreement. This can only be terminated by the decision of Council. On 28 October 2016, the Council adopted the provisional application of the Comprehensive and Economic Trade Agreement (CETA). See: European Council/Council of the European Union, *EU-Canada trade agreement: Council adopts decision to sign CETA*, at: <http://www.consilium.europa.eu/en/press/press-releases/2016/10/28-eu-canada-trade-agreement>.

13 Greek sector: 5,896 km², Turkish sector: 3,355 km².

14 Total of Greek and Turkish sectors.

15 Turkish sector: 3,500.

Memberships and forms of co-operation: OECD (1995), CoE (1993), NATO (1999), EAPC, EU (2004), RCC, CEI (1990/1993).

14. Denmark

Date of accession: June 1973

Scale of contributions: 2.1 per cent (14)

Area: 43,094 km² (40)

Population: 5,593,785 (30)

GDP per capita in international dollars at PPP rates: 52,002

GDP growth: 1.2 per cent (37)

Armed forces (active): 17,200 (33)

Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1973), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1992), RCC.

15. Estonia

Date of accession: September 1991

Scale of contributions: 0.19 per cent (33)

Area: 45,228 km² (39)

Population: 1,258,545 (47)

GDP per capita in international dollars at PPP rates: 17,295

GDP growth: 1.1 per cent (41)

Armed forces (active): 5,750 (46)

Memberships and forms of co-operation: OECD (2010), CoE (1993), NATO (2004), EAPC, EU (2004), Baltic Assembly/Baltic Council of Ministers, CBSS (1992).

16. Finland

Date of accession: June 1973

Scale of contributions: 1.85 per cent (16)

Area: 338,145 km² (14)

Population: 5,498,211 (31)

GDP per capita in international dollars at PPP rates: 41,921

GDP growth: 0.5 per cent (46)

Armed forces (active): 22,200 (29)

Memberships and forms of co-operation: OECD (1969), CoE (1989), EAPC, PfP (1994), EU (1995), Barents Euro-Arctic Council, Nordic Council (1955), CBSS (1992), RCC.

17. France

Date of accession: June 1973

Scale of contributions: 9.35 per cent (2)

Area: 643,801 km² (7)

Population: 66,836,154 (5)

GDP per capita in international dollars at PPP rates: 36,248
GDP growth: 1.2 per cent (38)
Armed forces (active): 208,950 (4)
Memberships and forms of co-operation: G7 (1975), OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), Observer to the Barents Euro-Arctic Council, RCC.

18. Georgia

Date of accession: March 1992
Scale of contributions: 0.05 per cent (49)
Area: 69,700 km² (33)
Population: 4,928,052 (36)
GDP per capita in international dollars at PPP rates: 3,796
GDP growth: 2.8 per cent (22)
Armed forces (active): 20,650 (32)
Memberships and forms of co-operation: CoE (1999), EAPC, PfP (1994), EU Association Agreement,¹⁶ BSEC.

19. Germany

Date of accession: June 1973
Scale of contributions: 9.35 per cent (2)
Area: 357,022 km² (13)
Population: 80,722,792 (3)
GDP per capita in international dollars at PPP rates: 41,219
GDP growth: 1.7 per cent (29)
Armed forces (active): 178,600 (6)
Memberships and forms of co-operation: G7 (1975), OECD (1961), CoE (1950), NATO (1955), EAPC, EU (1958), Observer to the Barents Euro-Arctic Council, CBSS (1992), RCC.

20. Greece

Date of accession: June 1973
Scale of contributions: 0.98 per cent (19)
Area: 131,957 km² (23)
Population: 10,773,253 (18)
GDP per capita in international dollars at PPP rates: 18,036
GDP growth: -0.2 per cent (47)
Armed forces (active): 142,950 (9)
Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1952), EAPC, EU (1981), RCC, SEECP, BSEC.

16 In June 2014, the EU and Georgia signed an Association Agreement (AA), which entered into force on 1 July 2016. See: https://eeas.europa.eu/headquarters/headquarters-homepage/1237/georgia-and-eu_en.

21. The Holy See

Date of accession: June 1973

Scale of contributions: 0.125 per cent (40)

Area: 0.44 km² (57)

Population: 1,000 (57)¹⁷

GDP per capita in international dollars at PPP rates: n/a

GDP growth: n/a

Armed forces (active): 110 (52)¹⁸

Memberships and forms of co-operation: none.

22. Hungary

Date of accession: June 1973

Scale of contributions: 0.6 per cent (23)

Area: 93,028 km² (26)

Population: 9,874,784 (21)

GDP per capita in international dollars at PPP rates: 12,259

GDP growth: 2.9 per cent (20)

Armed forces (active): 26,500 (26)

Memberships and forms of co-operation: OECD (1996), CoE (1990), NATO (1999), EAPC, EU (2004), RCC, CEI (1989).

23. Iceland

Date of accession: June 1973

Scale of contributions: 0.19 per cent (33)

Area: 103,000 km² (25)

Population: 335,878 (52)

GDP per capita in international dollars at PPP rates: 50,173

GDP growth: 4 per cent (9)

Armed forces (active): none

Memberships and forms of co-operation: OECD (1961), CoE (1950), NATO (1949), EAPC, EEA, Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1995).

24. Ireland

Date of accession: June 1973

Scale of contributions: 0.75 per cent (21)

Area: 70,273 km² (32)

Population: 4,952,473 (35)

GDP per capita in international dollars at PPP rates: 51,290

GDP growth: 7.8 per cent (2)

Armed forces (active): 9,100 (41)

¹⁷ 2015 (estimated).

¹⁸ Authorized strength 110 members of the Swiss Guard, see: http://www.vatican.va/roman_curia/swiss_guard/500_swiss/documents/rc_gsp_20060121_informazioni_it.html.

Memberships and forms of co-operation: OECD (1961), CoE (1949), EAPC, PfP (1999), EU (1973), RCC.

25. Italy

Date of accession: June 1973

Scale of contributions: 9.35 per cent (2)

Area: 301,340 km² (17)

Population: 62,007,540 (7)

GDP per capita in international dollars at PPP rates: 29,847

GDP growth: 0.8 per cent (44)

Armed forces (active): 174,500 (7)

Memberships and forms of co-operation: G7 (1975), OECD (1962), CoE (1949), NATO (1949), EAPC, EU (1958), Observer to the Barents Euro-Arctic Council, RCC, CEI (1989).

26. Kazakhstan

Date of accession: January 1992

Scale of contributions: 0.36 per cent (28)

Area: 2,724,900 km² (4)

Population: 18,360,353 (14)

GDP per capita in international dollars at PPP rates: 10,508

GDP growth: 1.2 per cent (36)

Armed forces (active): 39,000 (18)

Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991), Eurasian Economic Union, CSTO, SCO.

27. Kyrgyzstan

Date of accession: January 1992

Scale of contributions: 0.05 per cent (49)

Area: 199,951 km² (21)

Population: 5,727,553 (29)

GDP per capita in international dollars at PPP rates: 1,103

GDP growth: 3.5 per cent (14)

Armed forces (active): 10,900 (38)

Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991), Eurasian Economic Union, CSTO, SCO.

28. Latvia

Date of accession: September 1991

Scale of contributions: 0.19 per cent (33)

Area: 64,589 km² (35)

Population: 1,965,686 (46)

GDP per capita in international dollars at PPP rates: 13,665

GDP growth: 1.9 per cent (28)

Armed forces (active): 5,310 (48)

Memberships and forms of co-operation: OECD (2016), CoE (1995), NATO (2004), EAPC, EU (2004), Baltic Assembly/Baltic Council of Ministers, CBSS (1992), RCC.

29. Liechtenstein

Date of accession: June 1973

Scale of contributions: 0.125 per cent (40)

Area: 160 km² (54)

Population: 37,937 (54)

GDP per capita in international dollars at PPP rates: 178,713¹⁹

GDP growth: -1.2 per cent²⁰

Armed forces (active): none²¹

Memberships and forms of co-operation: CoE (1978), EEA.

30. Lithuania

Date of accession: September 1991

Scale of contributions: 0.19 per cent (33)

Area: 65,300 km² (34)

Population: 2,854,235 (43)

GDP per capita in international dollars at PPP rates: 14,172

GDP growth: 1.6 per cent (32)

Armed forces (active): 16,400 (35)

Memberships and forms of co-operation: CoE (1993), NATO (2004), EAPC, EU (2004), Baltic Assembly/Baltic Council of Ministers, CBSS (1992).

31. Luxembourg

Date of accession: June 1973

Scale of contributions: 0.47 per cent (27)

Area: 2,586 km² (51)

Population: 582,291 (50)

GDP per capita in international dollars at PPP rates: 101,450²²

GDP growth: 4.8 per cent (4)

Armed forces (active): 900 (51)

Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958).

19 2014.

20 2009.

21 In 1868, the armed forces were dissolved, see: <https://web.archive.org/web/20130508075411/http://www.liechtenstein.li/index.php?id=60&L=1>.

22 2013.

32. The Former Yugoslav Republic of Macedonia

Date of accession: October 1995

Scale of contributions: 0.125 per cent (40)

Area: 25,713 km² (47)

Population: 2,100,025 (44)

GDP per capita in international dollars at PPP rates: 4,853

GDP growth: 3.7 per cent (11)

Armed forces (active): 8,000 (43)

Memberships and forms of co-operation: CoE (1995), EAPC, PfP (1995), EU Candidate Country, SAA (2004), RCC, SEECP, CEFTA, CEI (1993).

33. Malta

Date of accession: June 1973

Scale of contributions: 0.125 per cent (40)

Area: 316 km² (53)

Population: 415,196 (51)

GDP per capita in international dollars at PPP rates: 22,596

GDP growth: 2.9 per cent (2013)²³

Armed forces (active): 1,950 (50)

Memberships and forms of co-operation: CoE (1965), EAPC, PfP (1995/2008),²⁴ EU (2004).

34. Moldova

Date of accession: January 1992

Scale of contributions: 0.05 per cent (49)

Area: 33,851 km² (43)

Population: 3,510,485 (39)

GDP per capita in international dollars at PPP rates: 1,843

GDP growth: -0.5 per cent (48)

Armed forces (active): 5,350 (47)

Memberships and forms of co-operation: CoE (1995), EAPC, PfP (1994), EU Association Agreement, CIS (1991), RCC, SEECP, CEFTA, CEI (1996), BSEC.

35. Monaco

Date of accession: June 1973

Scale of contributions: 0.125 per cent (40)

Area: 2.00 km² (56)

Population: 30,581 (56)

GDP per capita in international dollars at PPP rates: 163,352²⁵

²³ 2013.

²⁴ Malta joined the PfP in April 1995, but suspended its participation in October 1996. Malta re-engaged in the Partnership for Peace Programme in 2008, see: <http://www.nato.int/docu/update/2008/04-april/e0403e.html>.

²⁵ 2011.

GDP growth: 10 per cent²⁶
Armed forces (active): none
Memberships and forms of co-operation: CoE (2004).

36. Mongolia

Date of accession: November 2012
Scale of contributions: 0.05 per cent (49)
Area: 1,564,116 km² (5)
Population: 3,031,330 (42)
GDP per capita in international dollars at PPP rates: 3,973
GDP growth: 2.3 per cent (26)
Armed forces (active): 10,000 (40)
Memberships and forms of co-operation: NATO Partners across the Globe, Observer State to the SCO.

37. Montenegro

Date of accession: June 2006
Scale of contributions: 0.05 per cent (49)
Area: 13,812 km² (49)
Population: 644,578 (49)
GDP per capita in international dollars at PPP rates: 6,415
GDP growth: 3.4 per cent (15)
Armed forces (active): 2,080 (49)
Memberships and forms of co-operation: CoE (2007), NATO,²⁷ EAPC, PfP (2006), EU Candidate Country, SAA (2010), RCC, SEECP, CEFTA, CEI (2006).

38. Netherlands

Date of accession: June 1973
Scale of contributions: 4.36 per cent (9)
Area: 41,543 km² (41)
Population: 17,016,967 (15)
GDP per capita in international dollars at PPP rates: 44,433
GDP growth: 2 per cent (27)
Armed forces (active): 36,050 (20)
Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), Observer to the Barents Euro-Arctic Council.

39. Norway

Date of accession: June 1973
Scale of contributions: 2.05 per cent (15)

²⁶ 2008.

²⁷ Montenegro concluded the accession negotiations with the signature of an accession protocol on 19th May 2016. Ratification was still pending on 31st December 2016.

Area: 323,802 km² (15)
Population: 5,265,158 (34)
GDP per capita in international dollars at PPP rates: 74,735
GDP growth: 1.6 per cent (31)
Armed forces (active): 23,550 (27)
Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1949), EEA, EAPC, Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1992), RCC.

40. Poland

Date of accession: June 1973
Scale of contributions: 1.35 per cent (17)
Area: 312,685 km² (16)
Population: 38,523,261 (10)
GDP per capita in international dollars at PPP rates: 12,494
GDP growth: 3.6 per cent (12)
Armed forces (active): 99,300 (11)
Memberships and forms of co-operation: OECD (1996), CoE (1991), NATO (1999), EAPC, EU (2004), Observer to the Barents Euro-Arctic Council, CBSS (1992), RCC, CEI (1991).

41. Portugal

Date of accession: June 1973
Scale of contributions: 0.98 per cent (19)
Area: 92,090 km² (27)
Population: 10,833,816 (17)
GDP per capita in international dollars at PPP rates: 19,223
GDP growth: 1.5 per cent (34)
Armed forces (active): 32,850 (21)
Memberships and forms of co-operation: OECD (1961), CoE (1976), NATO (1949), EAPC, EU (1986).

42. Romania

Date of accession: June 1973
Scale of contributions: 0.6 per cent (23)
Area: 238,391 km² (19)
Population: 21,599,736 (13)
GDP per capita in international dollars at PPP rates: 8,973
GDP growth: 3.7 per cent (10)
Armed forces (active): 70,500 (12)
Memberships and forms of co-operation: CoE (1993), NATO (2004), EAPC, EU (2007), RCC, SEECP, CEI (1996), BSEC.

43. Russian Federation

Date of accession: June 1973

Scale of contributions: 6 per cent (6)

Area: 17,098,242 km² (1)

Population: 142,355,415 (2)

GDP per capita in international dollars at PPP rates: 9,057

GDP growth: -3.7 per cent (49)

Armed forces (active): 798,000 (2)

Memberships and forms of co-operation: CoE (1996), EAPC, PfP (1994), NATO-Russia Council (2002),²⁸ CIS (1991), Eurasian Economic Union, CSTO, Barents Euro-Arctic Council, CBSS (1992), BSEC, SCO.

44. San Marino

Date of accession: June 1973

Scale of contributions: 0.125 per cent (40)

Area: 61 km² (55)

Population: 33,285 (55)

GDP per capita in international dollars at PPP rates: 62,993²⁹

GDP growth: 1.9 per cent³⁰

Armed forces (active): none

Memberships and forms of co-operation: CoE (1988).

45. Serbia

Date of accession: November 2000³¹

Scale of contributions: 0.14 per cent (39)

Area: 77,474 km² (31)

Population: 7,143,921 (28)³²

GDP per capita in international dollars at PPP rates: 5,144

GDP growth: 0.7 per cent (45)

Armed forces (active): 28,150 (25)

Memberships and forms of co-operation: CoE (2003), EAPC, PfP (2006), EU Candidate Country, SAA (2013), RCC, SEECP, CEFTA, CEI (1989/2000), BSEC.

46. Slovakia

Date of accession: January 1993

Scale of contributions: 0.28 per cent (30)

Area: 49,035 km² (38)

28 In April 2014 NATO suspended all practical cooperation with Russia. Political dialogue in the NATO-Russia Council has been continued only at the Ambassadorial level and above.

29 2008.

30 2008.

31 Yugoslavia was suspended from 7 July 1992 to 10 November 2000.

32 This figure does not include the population of Kosovo.

Population: 5,445,802 (32)
GDP per capita in international dollars at PPP rates: 15,963
GDP growth: 3.6 per cent (13)
Armed forces (active): 15,850 (36)
Memberships and forms of co-operation: OECD (2000), CoE (1993), NATO (2004), EAPC, EU (2004), RCC, CEI (1990/1993).

47. Slovenia

Date of accession: March 1992
Scale of contributions: 0.22 per cent (32)
Area: 20,273 km² (48)
Population: 1,978,029 (45)
GDP per capita in international dollars at PPP rates: 20,713
GDP growth: 2.9 per cent (21)
Armed forces (active): 7,600 (45)
Memberships and forms of co-operation: OECD (2010), CoE (1993), NATO (2004), EAPC, EU (2004), RCC, SEECP, CEI (1992).

48. Spain

Date of accession: June 1973
Scale of contributions: 4.58 per cent (8)
Area: 505,370 km² (9)
Population: 48,563,476 (8)
GDP per capita in international dollars at PPP rates: 25,832
GDP growth: 3.2 per cent (16)
Armed forces (active): 122,000 (10)
Memberships and forms of co-operation: OECD (1961), CoE (1977), NATO (1982), EAPC, EU (1986), RCC.

49. Sweden

Date of accession: June 1973
Scale of contributions: 3.24 per cent (10)
Area: 450,295 km² (11)
Population: 9,880,604 (20)
GDP per capita in international dollars at PPP rates: 50,273
GDP growth: 4.1 per cent (7)
Armed forces (active): 29,750 (24)
Memberships and forms of co-operation: OECD (1961), CoE (1949), EAPC, PfP (1994), EU (1995), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1992), RCC.

50. Switzerland

Date of accession: June 1973

Scale of contributions: 2.81 per cent (12)

Area: 41,277 km² (42)

Population: 8,179,294 (26)

GDP per capita in international dollars at PPP rates: 80,215

GDP growth: 0.9 per cent (42)

Armed forces (active): 20,800 (31)

Memberships and forms of co-operation: OECD (1961), CoE (1963), EAPC, PfP (1996), EU Association Agreement (withdrawn 2016),³³ RCC.

51. Tajikistan

Date of accession: January 1992

Scale of contributions: 0.05 per cent (49)

Area: 143,100 km² (22)

Population: 8,330,946 (25)

GDP per capita in international dollars at PPP rates: 926

GDP growth: 4.2 per cent (5)

Armed forces (active): 8,800 (42)

Memberships and forms of co-operation: EAPC, PfP (2002), CIS (1991), CSTO, SCO.

52. Turkey

Date of accession: June 1973

Scale of contributions: 1.01 per cent (18)

Area: 783,562 km² (6)

Population: 80,274,604 (4)

GDP per capita in international dollars at PPP rates: 9,130

GDP growth: 4 per cent (8)

Armed forces (active): 510,600 (3)

Memberships and forms of co-operation: OECD (1961), CoE (1950), NATO (1952), EAPC, EU Candidate Country,³⁴ RCC, SEECP, BSEC, SCO Dialogue Partner.

33 Switzerland formally withdrew its application for accession to the European Economic Community (EEC) of May 20 1992 on July 27 2016, see: https://www.eda.admin.ch/content/dam/dea/fr/documents/bundesrat/160727-Lettre-retrait-adhesion-CH_fr.pdf.

34 Within the framework of the agreement reached between the EU and Turkey of 18 March 2016, additional chapters of the EU accession negotiations with Turkey were opened, see: European Commission, EU-Turkey Statement: Questions and Answers, Brussels, 19 March 2016, at: http://europa.eu/rapid/press-release_MEMO-16-963_en.htm. On 24 November 2016, the European Parliament condemned Turkey's "disproportionate repressive measures" since the failed military coup of 15 July 2016, and called for a temporary freezing of EU accession talks with Turkey, see: European Parliament, European Parliament resolution of 24 November 2016 on EU-Turkey relations, Strasbourg, 24 November 2016, at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2016-0450&language=EN>.

53. Turkmenistan

Date of accession: January 1992

Scale of contributions: 0.05 per cent (49)

Area: 488,100 km² (10)

Population: 5,291,317 (33)

GDP per capita in international dollars at PPP rates: 6,948

GDP growth: 6.5 per cent (3)

Armed forces (active): 36,500 (19)

Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991).

54. Ukraine

Date of accession: January 1992

Scale of contributions: 0.68 per cent (22)

Area: 603,550 km² (8)

Population: 44,209,733 (9)

GDP per capita in international dollars at PPP rates: 2,115

GDP growth: -9.9 per cent (51)

Armed forces (active): 204,000 (5)

Memberships and forms of co-operation: CoE (1995), EAPC, PfP (1994), NATO-Ukraine Charter/NATO-Ukraine Commission (1997), EU Association Agreement,³⁵ CIS (1991), CEI (1996), BSEC.

55. United Kingdom

Date of accession: June 1973

Scale of contributions: 9.35 per cent (2)

Area: 243,610 km² (18)

Population: 64,430,428 (6)

GDP per capita in international dollars at PPP rates: 43,734

GDP growth: 2.3 per cent (25)

Armed forces (active): 154,700 (8)

Memberships and forms of co-operation: G7 (1975), OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1973),³⁶ Observer to the Barents Euro-Arctic Council, RCC.

35 As a rule, the Council/Council of Ministers of the EU decides by a qualified majority pursuant to Article 218 (5) TFEU on the provisional application of international agreements before their entry into force. The failure of ratification in a Member State of the EU is not sufficient to end the provisional application of an international agreement. This can only be terminated by the decision of Council. The Deep and Comprehensive Free Trade Agreement (DCFTA) has been provisionally applied since 1 January 2016 and the more general Association Agreement has been provisionally applied since November 2014, see: European Commission, *Trade, Countries and Regions, Ukraine*, at: <http://ec.europa.eu/trade/policy/countries-and-regions/countries/ukraine>.

36 On 23 June 2016, an advisory referendum was held in the United Kingdom on the country's continued membership of the European Union, which resulted in a narrow majority in favour of leaving. The withdrawal process will formally commence when the UK government notifies the European Council of its intention to leave in accordance with Article 50 of the Treaty on European Union.

56. USA

Date of accession: June 1973

Scale of contributions: 11.5 per cent (1)

Area: 9,826,675 km² (3)

Population: 323,995,528 (1)

GDP per capita in international dollars at PPP rates: 55,837

GDP growth: 2.4 per cent (24)

Armed forces (active): 1,381,250 (1)

Memberships and forms of co-operation: G7 (1975), OECD (1961), NATO (1949), EAPC, Observer to the Barents Euro-Arctic Council, RCC, NAFTA.

57. Uzbekistan

Date of accession: January 1992

Scale of contributions: 0.35 per cent (29)

Area: 447,400 km² (12)

Population: 29,473,614 (12)

GDP per capita in international dollars at PPP rates: 2,132

GDP growth: 8 per cent (1)

Armed forces (active): 48,000 (15)

Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991), SCO.

Sources:

Date of accession:

<http://web.archive.org/web/20100826040207/http://www.osce.org/about/13131.html> and <http://www.osce.org/de/mc/97738> (Mongolia)

Scale of contributions:

OSCE, Decision of the Permanent Council, PC.DEC/1196, 17 December 2015. <http://www.osce.org/pc/212816>

Area:

https://www.cia.gov/library/publications/the-world-factbook/rankorder/rawdata_2147.txt

Population:

(estimated as of July 2016) https://www.cia.gov/library/publications/the-world-factbook/fields/print_2119.html

GDP per capita in current U.S. dollars:

(as of 2015, unless stated to the contrary)

<http://data.worldbank.org/indicator/NY.GDP.PCAP.CD/countries>

GDP growth:

(as of 2015, unless stated to the contrary)

<http://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG/countries>

Armed forces (active):

*International Institute for Strategic Studies (ed.), The Military Balance 2016,
London 2016*

OSCE Conferences, Meetings, and Events 2015/2016

2015

10-11 September	Chairmanship/OSCE Transnational Threats Department (TNTD)/Strategic Police Matters Unit (SPMU): Conference on Enhancement of Mechanisms to Cope with Increasing Spread of Illicit Drugs amongst Young People, Vienna
5-18 September	OSCE Parliamentary Assembly (PA): 2015 Autumn Meeting, Ulaanbaatar
21 September - 2 October	Office of Democratic Institutions and Human Rights (ODIHR): Human Dimension Implementation Meeting 2015, Warsaw
14-16 September	OSCE Chairmanship/Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA): Concluding Meeting of the 23rd OSCE Economic and Environmental Forum, Prague
7-8 October	OSCE TNTD/Action against Terrorism Unit (ATU)/Office of the OSCE Representative on Freedom of the Media (RFOM): Expert Workshop on “Media Freedom and Responsibilities in the Context of Counter-Terrorism Policies”, Bucharest
20-21 October	OSCE Secretariat: 2015 OSCE Mediterranean Conference, Jordan
20-22 October	OSCE TNTD: Workshop on Border Security and Counter Cross Border Criminal Activity in Mediterranean Region, Avila
26-27 October	OSCE TNTD/Borders Security and Management Unit (BSMU): Thematic Meeting of the OSCE Border Security and Management National Focal Points Network on Emerging Technologies in Border Security and Management – Use of Unmanned Aerial Vehicles (UAVs), Odense
28 October	OSCE Secretary General: Security Days: Climate Change and Security – Unprecedented Impacts, Unpredictable Risks, Vienna
29-30 October	Chairmanship/ODIHR/High Commissioner on National Minorities (HCNM): OSCE Contribution to the Protection of National Minorities, Vienna
29-30 October	OSCE TNTD/OSCE Chairmanship: OSCE Chairmanship Event on Effective Strategies to Cyber/ICT Security Threats, Belgrade

4-5 November	OSCE TNTD/SPMU/UNODC/International Organization for Migration (IOM): Regional Workshop on Strengthening Cross-border Co-operation in Addressing Irregular Migration-related Crimes in the Western Balkans, Belgrade
13 November	OSCE Secretary General: Security Days: In Pursuit of Peace and Security – How Gender Makes a Difference, Vienna
2-3 December	OSCE TNTD/ATU: Training workshop on Countering the Use of the Internet for Terrorist Purposes for Judges, Prosecutors and Investigators, Valletta
3-4 December	OSCE Chairmanship: 22nd OSCE Ministerial Council, Belgrade
7-11 December	OSCE/Border Management Staff College (BMSC): “Developing Innovative Solutions to Border Issues through New Technologies” – OSCE Cross Border Research Conference, Dushanbe
16-17 December	OSCE BMSC/TNTD/BSMU: Meeting of the OSCE Border Security and Management Training Support Network (TS Network), Vienna

2016

1 January	Germany takes over the OSCE Chairmanship from Serbia. German Foreign Minister Dr Frank-Walter Steinmeier becomes Chairperson-in-Office
20 January	OSCE Chairmanship: OSCE Cyber conference “Three Dimensions of Information and Telecommunication Technology”, Berlin
25-26 January	OSCE Chairmanship/OCEEA: First Preparatory Meeting of the 24th OSCE Economic and Environmental Forum on “Good Governance in the OSCE Area – Reinforcing Security and Stability through Co-operation”, Vienna
16-17 February	OSCE TNTD/SPMU: Regional Round Table on “Legal and Operational Aspects, Challenges, Needs and Best Practices in Combating New Psychoactive Substances (NPS) in Eastern Europe”, Minsk
19 February	ODIHR: Conference “Comprehensive Approach to Countering Intolerance against Muslims”, Vienna
25-26 February	OSCE PA: 15th Winter Meeting, Vienna
4 March	OSCE: Security Days: Refocusing Migration and Security – Bridging National and Regional Responses, Rome

17-18 March	OSCE/ODIHR: Training for police on effective and human rights-compliant policing in relation to Roma and Sinti communities, Warsaw
4-15 April	OSCE TNTD/ATU: Online Expert Forum on Strengthening Public-Private Partnerships in Preventing and Countering Hostage-Taking and Kidnapping for Ransom (KFR), online event
11-12 April	OSCE Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings: 16th Alliance against Trafficking in Persons Conference on “Combating Trafficking in Human Beings for the Purpose of Forced Criminality”, Vienna
12 April	OSCE Chairmanship/Troika: OSCE Troika meeting, Berlin, Germany
12-14 April	OSCE TNTD/BSMU: 10th Annual Meeting of the OSCE Border Security and Management National Focal Points (NFP) Network, Berlin, Germany
14-16 April	ODIHR/Chairperson-in-Office: Supplementary Human Dimension Meeting (SHDM) I: Policies and strategies to further promote tolerance and non-discrimination, Vienna, Austria
20 April	HCNM: High-level conference to mark 20 years of the OSCE High Commissioner’s Hague Recommendations on education rights, The Hague, Netherlands
3-7 May	OSCE Transnational Threats Department/Border Management and Security Unit: Training on addressing cross-border challenges in identification of potential foreign terrorist fighters (FTFs), Vienna
17-18 May	OSCE/TNTD/BSMU: Launch Meeting of the Gender Equality Platform for Border Security and Management, Helsinki
18-19 May	OSCE Chairmanship/German Foreign Office: OSCE Conference “Connectivity for Commerce and Investment”, Berlin
19-20 May	OSCE Chairmanship/OCEEA: 2nd Preparatory Meeting of the 24th OSCE Economic and Environmental Forum, Berlin
31 May - 1 June	OSCE Chairmanship/OSCE TNTD/ATU: OSCE-Wide Counter-Terrorism Conference 2016, Berlin
2-3 June	OSCE Chairmanship/OSCE Conflict Prevention Centre (CPC)/OSCE PA/Geneva Centre for the Democratic Control of Armed Forces: Conference “Code of Conduct: Parliamentary Control and Over-

	sight of the Security Sector”, Berlin
6-7 June	Ministry of Foreign Affairs of the Kingdom of Thailand/OSCE Asian Contact Group/OSCE Secretariat: 2016 OSCE Asian Conference on Strengthening Comprehensive Security, Bangkok
7-8 June	OSCE TNTD/SPMU: Annual Meeting of the OSCE Heads of Law Enforcement Departments, Vienna
9-10 June	OSCE TNTD/SPMU: Annual Police Experts Meeting on Intelligence-Led Policing: A Model for Strategic Planning, Strengthening Community Policing and Countering Transnational Threats posed by Criminal Activity, Vienna
17 June	OCEEA: Expert Meeting “Enhancing the OSCE long-term approach to migration governance”, Vienna
23-24 June	OSCE in co-operation with the Friedrich-Ebert-Stiftung and the Konrad-Adenauer-Stiftung: Security Days: From Confrontation to Co-operation – Restoring Co-operative Security in Europe, Berlin
28-30 June	OSCE Chairmanship: 2016 OSCE Annual Security Review Conference, Vienna
1-5 July	OSCE PA: 25th Annual Session, Tbilisi
6 July	OSCE Chairmanship/Initiative Mediation Support Germany (IMSD) Network: Conference “OSCE as a Mediator”, Berlin, Germany
10-16 July	HCNM: 5th regional summer school on multilingual and multicultural education in Central Asia, Cholpon-Ata
12-13 July	OSCE Chairmanship/OSCE Mission to Moldova: Conference on confidence-building measures in the Transdnistrian settlement process, Bad Reichenhall
22 July	OSCE Gender Section/OSCE Chairmanship: Gender Conference: Combating violence against women in the OSCE region, Vienna

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- larations by the Ministerial Council, Decisions of the Ministerial Council, Statements by Delegations, Reports to the Ministerial Council, Belgrade 2015.
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Abbreviations

ABM Treaty	Anti-Ballistic Missile Treaty
AfD	Alternative für Deutschland/Alternative for Germany
ACFE	Agreement on the Adaptation of the Treaty on Conventional Armed Forces in Europe/Adapted Treaty on Conventional Armed Forces in Europe
ACMF	Advisory Committee on Management and Finance
AIAM	Annual Implementation Assessment Meeting
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ASRC	Annual Security Review Conference
ATU	Action against Terrorism Unit
AU	African Union
BAME	Black, Asian, and Minority Ethnic
BBC	British Broadcasting Corporation
BCP	Border Crossing Points
BMSC	Border Management Staff College
BSEC	Black Sea Economic Cooperation
BSMC	Border Security and Management Concept
BSMU	Border Security and Management Unit
CAC	Conventional Arms Control
CACO	Central Asian Cooperation Organization
CAYN	Central Asian Youth Network
CBMs	Confidence-Building Measures
CBSS	Council of the Baltic Sea States
CEAS	Common European Asylum System
CEEA	Co-ordinator of OSCE Economic and Environmental Activities
CEFTA	Central European Free Trade Agreement
CEI	Central European Initiative
CERD	Committee on the Elimination of Racial Discrimination
CFE	Conventional Armed Forces in Europe
CFE Treaty	Treaty on Conventional Armed Forces in Europe
CFSP	Common Foreign and Security Policy
CICA	Conference on Interaction and Confidence-Building Measures in Asia
CiO	Chairperson-in-Office
CIS	Commonwealth of Independent States
CoE	Council of Europe
Comecon	Council for Mutual Economic Assistance
CORE	Centre for OSCE Research
CPC	Conflict Prevention Centre

CSBMs	Confidence- and Security-Building Measures
CSCE	Conference on Security and Co-operation in Europe (since January 1995 OSCE)
CSDP	Common Security and Defence Policy
CSO	Committee of Senior Officials
CSOs	Civil Society Organizations
CST	Treaty on Collective Security
CSTO	Collective Security Treaty Organization
CVE	Countering Violent Extremism
DC	Draft Convention
DCAF	Geneva Centre for the Democratic Control of Armed Forces
DDR	Disarmament, Demobilization, Reintegration
DUP	Democratic Unionist Party
EAEU	Eurasian Economic Union
EaP	Eastern Partnership
EAPC	Euro-Atlantic Partnership Council
EASO	European Asylum Support Office
EBRD	European Bank for Reconstruction and Development
EC	European Commission
EC	European Community
ECHR	European Convention on Human Rights
ECJ	European Court of Justice
ECOWARN	ECOWAS Warning and Response Network
ECOWAS	Economic Community of West African States
ECRI	European Commission against Racism and Intolerance
ECtHR	European Court of Human Rights
EEAS	European External Action Service
EEC	European Economic Community
EED	Economic and Environmental Dimension
EEF	Economic and Environmental Forum
EHRC	Equality and Human Rights Commission
ENP	European Neighbourhood Policy
ENVSEC	Environment and Security Initiative
EOM	Election Observation Mission
ERW	Explosive Remnants of War
ETLO	East Turkestan Liberation Organization
EU	European Union
FOPs	Field Operations
FPB	Forward Patrol Bases
FPÖ	Freiheitliche Partei Österreichs/Freedom Party of Austria
Frontex	European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the European Union
FSC	Forum for Security Co-operation

FTF	Foreign Terrorist Fighters
FYROM	Former Yugoslav Republic of Macedonia
G7	Group of Seven
G20	Group of Twenty
GATT	General Agreement on Tariffs and Trade
GCSP	Geneva Centre for Security Policy
GDP	Gross Domestic Product
GDR	German Democratic Republic
GNI	Gross National Income
GNP	Gross National Product
HCNM	High Commissioner on National Minorities
HDIM	Human Dimension Implementation Meeting
HEAT	Hostile Environment Awareness Training
HF	High Frequency
HLPG	High-Level Planning Group
IAEA	International Atomic Energy Agency
IBM	Integrated Border Management
ICC	International Computing Centre
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICT	Information and Communications Technology
IDPs	Internally Displaced Persons
ILC	International Law Commission
ILO	International Labour Organization
IMF	International Monetary Fund
IMSD	Initiative Mediation Support Deutschland/Initiative Mediation Support Germany
INGOs	International Nongovernmental Organizations
IOM	International Organization for Migration
IPI	International Peace Institute
IRA	Irish Republican Army
IWG	Informal Working Group
JCCC	Joint Centre for Control and Co-ordination
JCPOA	Joint Comprehensive Plan of Action
KFR	Kidnapping for Ransom
KVM	Kosovo Verification Mission
LAS	League of Arab States
LGBT	Lesbian, Gay, Bisexual, Transgender

MBFR	Mutual and Balanced Force Reductions
MC	Ministerial Council
Medevac	Medical Evacuation
MFA	Ministry of Foreign Affairs
MGIMO	Moskovsky gosudarstvennyi institut mezhdunarodnykh otnoshenii (universitet)/Moscow State Institute of Inter- national Relations (University)
MIA	Ministry of Internal Affairs
MOI	Ministry of the Interior
MoU	Memorandum of Understanding
MP	Member of Parliament
MPCs	Mediterranean Partners for Co-operation
MU	Monitoring Unit
NAFTA	North American Free Trade Agreement
NATO	North Atlantic Treaty Organization
NFP	National Focal Points
NGOs	Non-Governmental Organizations
NHRIs	National Human Rights Institutions
NHS	National Health Service
NPCC	National Police Chiefs' Council
NRC	NATO-Russia Council
OAS	Organization of American States
OCEEA	Office of the Co-ordinator of OSCE Economic and Environ- mental Activities
ODIHR	Office for Democratic Institutions and Human Rights
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the High Commissioner for Human Rights
OIC	Organisation of Islamic Cooperation
OM	Observer Mission
OMIK	OSCE Mission in Kosovo
OSCE	Organization for Security and Co-operation in Europe
OSR/CTHB	Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings
PA	Parliamentary Assembly
PACE	Parliamentary Assembly of the Council of Europe
PC	Permanent Council
PCU	Project Co-ordinator in Ukraine
PDU	Police Development Unit
PEP	Panel of Eminent Persons
PfP	Partnership for Peace
PISM	Polski Instytut Spraw Międzynarodowych/Polish Institute of International Affairs
PKO	Peacekeeping Operation
POLIS	Policing OnLine Information System

RCC	Regional Cooperation Council
REC	Regional Environmental Center
RFOM	Representative on Freedom of the Media
RUC	Royal Ulster Constabulary
SAA	Stabilisation and Association Agreement
SALW	Small Arms and Light Weapons
SAP	Stabilisation and Association Process
SAS	Special Air Service
SCHR	Swiss Centre of Expertise in Human Rights
SCO	Shanghai Cooperation Organization
SDLP	Social Democratic and Labour Party
SEATO	South East Asia Treaty Organization
SECI	Southeast European Cooperative Initiative
SEECF	South-East European Cooperation Process
SG	Secretary General
SHDM	Second Supplementary Human Dimension Meeting
SIPRI	Stockholm International Peace Research Institute
SMM	Special Monitoring Mission
SOFA	Status of Force Agreement
SOG	Südosteuropa-Gesellschaft/Southeast Europe Association
SPD	Sozialdemokratische Partei Deutschlands/Social Democratic Party of Germany
SPMU	Strategic Police Matters Unit
SSR	Security Sector Reform
START	Strategic Arms Reduction Treaty
SWP	Stiftung Wissenschaft und Politik/German Institute for International and Security Affairs
TCG	Trilateral Contact Group
TNT	Transnational Threats
TNTD	Transnational Threats Department
TS	Training Support
UAV	Unmanned Aerial Vehicle
UCAV	Unmanned Combat Aerial Vehicle
UDA	Ulster Defence Association
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UKIP	United Kingdom Independence Party
UN/UNO	United Nations/United Nations Organization
UNCHR	United Nations Commission on Human Rights
UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization

UNHCHR/ UNOHCHR	United Nations High Commissioner for Human Rights/UN Office of the High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees/United Nations Refugee Agency
UNHRC	United Nations Human Rights Council
UNICEF	United Nations Children's Fund
UNIDO	United Nations Industrial Development Organization
UNMIK	United Nations Interim Administration Mission in Kosovo
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
UNODA	United Nations Office for Disarmament Affairs
UNODC	United Nations Office on Drugs and Crime
UNPROFOR	United Nations Protection Force
UNROCA	United Nations Register of Conventional Arms
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
USAID	United States Agency for International Development
USSR	Union of Soviet Socialist Republics
UUP	Ulster Unionist Party
UVF	Ulster Volunteer Force
UXO	Unexploded Ordnance
VD	Vienna Document
VERLT	Violent Extremism and Radicalization that Lead to Terror- ism
VHF	Very High Frequency
WCO	World Customs Organization
WEF	World Economic Forum
WG	Working Group
WMD	Weapons of Mass Destruction
WTO	World Trade Organization

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