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Civilians in a War Zone: The OSCE in Eastern Ukraine

The past year has tested the ability of a civilian mission to operate in a war zone. Because of the lack of progress in the implementation of the Minsk Agreements, diplomatic initiatives have been overshadowed by military developments. As a result, civilians and the OSCE Special Monitoring Mission (SMM) to Ukraine have been caught in the crossfire. One mission member was even killed. This contribution outlines the political and operational challenges that the OSCE faces in dealing with the conflict in and around Ukraine, particularly in the Donbas region.

Defusing Conflicts, Building Trust

The Austrian Chairmanship of the OSCE, which began on 1 January 2017, identified “defusing armed conflicts” and “building trust” as two of its three main priorities (the third being “fighting radicalisation and violent extremism”). The largest armed conflict in the OSCE area, with a major effect on security and co-operation, is the crisis in and around Ukraine. As a result, the Chairmanship made this its highest priority.

The importance of this was demonstrated by the fact that the Chairman-in-Office, Austrian Foreign Minister Sebastian Kurz, travelled to Ukraine immediately upon taking office, on 3 and 4 January. He visited Dnipro and then travelled by military helicopter to Mariupol, and then visited the Contact Line at Pyshevyyk. While there, he met with Ukrainian government officials, SMM monitors, humanitarian workers, and local people.

His main conclusion was that the OSCE needed to increase its presence on the ground: to increase the number of monitors (from 700 to 1,000); open more forward patrol bases; and make more effective use of technology. This would enlarge the Mission’s footprint and enhance 24/7 monitoring.

The Austrians realistically calculated that a political settlement to the crisis was not likely during the year of their Chairmanship. They therefore decided to focus the most attention on improving the well-being of the people most affected by the conflict.

Increased “Disconnectivity”

In the first few months of 2017, the distance between communities living on either side of the line of contact increased. In late January, a group of Ukrainian war veterans blocked railway lines vital to carrying coal from Don-

etsk and Luhansk to the rest of Ukraine. The cheap anthracite coal, mined exclusively in the east, is important for Ukraine's power generation and steel industry. Trainloads of coal had been moving from east to west despite the war. But three of the four junctions were blocked in early 2017. This resulted in economic hardships for both sides.

In retaliation, the leaders of so-called "Donetsk People's Republic" (DPR) and "Lugansk People's Republic" (LPR) issued a statement on 27 February warning that if the blockade was not lifted before 1 March, enterprises under Ukrainian jurisdiction (of which they listed around forty¹) would become subject to "external management". On the same day, the "head of state" of the DPR, Alexander Zakharchenko, signed a "decree" declaring the line of contact to be a "state border" between the DPR and Ukraine. Less than two weeks earlier, on 18 February, Russian President Vladimir Putin had issued an executive order on recognition in the Russian Federation of documents and vehicle registration certificates issued in territories of certain areas of Donetsk and Luhansk. This looked like a creeping policy of "borderization" that was reminiscent of tactics used in other parts of the post-Soviet space, such as South Ossetia.

The worsening political climate was accompanied by a dangerous increase in violence. On 19 January, the Chief Monitor of the SMM, Ambassador Ertuğrul Apakan, warned the OSCE Permanent Council that the security situation in the Donetsk and Luhansk regions was deteriorating. The Chairmanship's Special Representative, Ambassador Martin Sajdik, warned of "a dangerous downward spiral". The SMM reported a notable increase in the use of weapons proscribed by the Minsk Agreements, including multiple launch rocket systems and other artillery. Just over a week later, fighting further intensified around the Avdiivka-Yasynuvata-Donetsk airport. On 1 February, the SMM recorded over ten thousand explosions (the highest number ever recorded by the SMM in a twenty-four hour period), more than nine thousand of which were around Avdiivka and Yasynuvata. The Chief Monitor called for an immediate ceasefire.

Despite the fighting and a bitterly cold winter, civilians tried to get on with their lives. But this became increasingly difficult. Gas, water, and electricity were often cut off as a result of shelling. Almost daily, the SMM reported several thousand people queuing to cross the few entry and exit points. In many cases, pensioners had to wait for hours in freezing conditions to pick up their state pensions. Others struggled with heavy packs across the partly destroyed bridge at Stanytsia Luhanska.

The situation on the ground was a far cry from that envisaged by the Minsk Agreements, which had called for a full restoration of socio-economic relations. It was also the opposite of the type of economic connectivity that the OSCE was trying to promote: This was "disconnectivity".

1 One of these assets was the Park Inn Hotel where the SMM had its headquarters in Donetsk.

Civilians were increasingly caught in the crossfire. In the first half of 2017, the number of civilian casualties – whether caused directly by the fighting or by contact with mines, unexploded ordnance, or improvised explosive devices – was twice as high as in the first six months of 2016. The Mission had to follow up reports of civilian casualties or damage to civilian housing on an almost daily basis. Monitors were repeatedly asked by tired and angry civilians on both sides of the line of contact – “When is this going to end?” Mediators were asking themselves the same question.

Political Impasse

Over the past year, there has been little progress in the settlement process. The Normandy Group (consisting of France, Germany, the Russian Federation, and Ukraine) discussed a “road map” to implement the Minsk Agreements, but it did not materialize. Even some basics have not been adhered to. Most seriously, many of the ceasefire violations that took place on a daily basis were caused by weapons that were proscribed by the Minsk Agreements and should have been withdrawn in 2015. Furthermore, the sides failed to disengage despite a framework decision on disengagement (starting in Zolote, Stanytsia Luhanska, and Petrivske) to which they had agreed on 21 September 2016. And they failed to clear mines, or even to provide the SMM with maps of areas suspected or confirmed to be contaminated by mines – despite repeated requests by the Chief Monitor.

The basic dilemma was that the Ukrainian government said there would be no progress on greater local elections or greater self-government for certain areas of Donetsk and Luhansk until there was security and full control over the state border, whereas the Russian Federation and the “leaders” of “certain areas of the Donetsk and Luhansk oblasts” insisted on constitutional reform, greater decentralization, and a special status for the latter regions as a prerequisite for stability.

Not being part of the Normandy Format, the Austrian Chairmanship had limited political influence on the settlement process. Chairman-in-Office Kurz visited Kyiv and Moscow for high-level consultations in January and there were regular contacts at various levels between the Chairmanship and all countries of the Normandy Group as well as other key players, such as the United States.

The Trilateral Contact Group (TCG), chaired by Ambassador Sajdik, met regularly in Minsk. Indeed, it is the only inclusive consultative body dealing with the crisis. The TCG made several attempts at brokering seasonal ceasefires (for example at the beginning of the school year in September 2016, around Christmas, and during the harvest period in the summer of 2017). But these were short-lived. Intense negotiations were held on prisoner exchanges. And efforts were made to ensure sustainable operation of the

water system (which supplies more than two million people on both sides of the line of contact) and to keep fighting away from critical infrastructure. But the parties demonstrated little political will to resolve such issues. Meetings were typified by acrimonious exchanges and accusations. As a result, there was little progress in any of the TCG's four working groups (on security, humanitarian, economic, and political issues).

In the absence of political or diplomatic progress, military dynamics filled the vacuum on the ground.

More Eyes and Ears?

As a result, instead of monitoring a ceasefire and verifying the withdrawal of weapons, the SMM measured non-compliance.

To increase the scope and effectiveness of its monitoring activities, the SMM sought an increase in its budget. After several weeks of negotiations, the SMM's budget was approved by a decision of the Permanent Council on 16 March 2017. The budget of 105.5 million euros represented an increase of almost seven per cent over the previous year. Securing a budget increase of this magnitude was a significant achievement, considering the climate of austerity prevailing among most participating States, and the heated debates that occurred over the regular OSCE unified budget. But it showed the importance that participating States attach to the work of the SMM.

These resources enabled the Mission to grow its footprint, to raise the number of monitors deployed, and to acquire more technology, including additional cameras (such as thermal cameras for night-time monitoring), more short- and medium-range UAVs, acoustic sensors (for the first time), and even long-range UAVs.

The last-mentioned, which are extremely expensive, were hotly debated in the budget process, since several countries were eager to have such assets to increase transparency in areas which are hard for ground patrols to access (such as close to the Russian-Ukrainian border), while others questioned whether the benefits justified the costs.

The SMM's first experience with long-range UAVs (using an Austrian company) had been a learning experience, since the UAVs could not be flown in certain types of weather (including fog and freezing temperatures) and several were shot down, causing the supplier to terminate the contract due to excessive risk. A formula was therefore created in the 2017/18 budget to earmark a certain amount of money to enable a tender to be issued. Once a supplier was identified, voluntary contributions had to be secured to make up the difference (which included a risk-sharing agreement with the supplier).

The budget was also designed to strengthen the Mission's administrative backbone. Rapid growth in the number of monitors over the previous three years had not been accompanied by a corresponding increase in vital

support functions. More administrative posts were, therefore, created, and several technical support posts were established to enable the Mission to handle the vast increase in the volume of information that was it collecting or receiving (such as satellite imagery). These “technical monitors”, as they were known, were organized into a new Technical Monitoring Centre that included an information Management Cell, camera monitors, and an operations room. Even by United Nations or European Union standards, the SMM was becoming a cutting-edge peace operation.

The underlying logic of the Mission’s work was to see and be seen. This required a combination of technical solutions (particularly in hard-to-access areas and for monitoring at night) as well as monitors. As the Chief Monitor often said, “the most important thing is to be present”.

In that spirit, and in an effort to reduce the number of blind spots, the Mission sought to open new forward patrol bases, after renovations were carried out to abide by new (more stringent) security standards. One was opened in Popasna at the end of June, while two others in Shchastya and Stanytsia Luhanska were scheduled to be reopened in autumn 2017. Forward patrol bases provide enhanced access to the security zone, enable night-time monitoring, improve contact with the local population, and reduce travel times to border areas.

It should be recalled that roughly 400 kilometres of the Ukraine border are not controlled by the government. SMM patrols regularly try to access crossing points on these areas of the frontier. The OSCE Observer Mission at the Russian Checkpoints Gukovo and Donetsk monitors border crossing points at these two locations. The 19 permanent international staff members observe the crossing points around the clock. But they have no executive power to search vehicles. All efforts to increase the area of operations of this mission have been stymied by the Russian Federation.

Increased Obstruction

Unfortunately, the investment in more monitors and technology did not reduce the levels of violence; it merely improved the Mission’s ability to measure non-compliance. Throughout the first few weeks of 2017, the Mission reported hundreds, sometimes thousands, of ceasefire violations every day.

Increasingly, the SMM itself came under attack. Several times a week, patrols were subjected to harassment, shouted at, and even came under fire. Some were forced to return to base after shelling in their vicinity. The SMM’s short- and medium-range UAVs were shot at and electronically jammed. In a security briefing to participating States in March, Deputy Chief Monitor Alexander Hug warned of the danger of “unmanageable risks” to the monitors.

The Mission was also the subject of a misinformation campaign – mostly in non-government controlled areas – in which it was accused of spying for and assisting the Ukrainian authorities, as well as failing to stop the fighting or improve the lives of people in the Donbas.

There were also increased incidents of SMM patrols being denied access – particularly in non-government controlled areas. This was a major handicap to the Mission’s work. As the Chief Monitor warned, the purpose of the SMM’s monitoring is not just to establish facts: “It is to verify compliance or non-compliance. But without access, the SMM cannot verify, and the sides have no confidence in the process.”²

Loss of Innocence

On 23 April, an incident occurred that shook the Mission and the whole OSCE community to its core. On that morning, an SMM patrol consisting of two armoured vehicles was driving on a secondary road near the village of Pryshyb (34 km north-west of Luhansk). The SMM had previously used this road, which is close to the line of contact in territory controlled by the LPR. At 11:17 a.m., one of the SMM vehicles was severely damaged as a result of an explosion. An American paramedic, Joseph Stone, was killed in the blast. This was the first time that someone working for the OSCE had been killed in action.³ The two other mission members in the vehicle – a woman from Germany and a man from the Czech Republic – were injured and evacuated.

As a result of this tragic incident, it was decided that – until further notice – both foot and mobile patrols would only use concrete or asphalt roads that had previously been cleared. This created some difficulties, making access to some of the SMM’s remote cameras and some border areas harder, reducing the number of inspection visits to stored weapons that are only accessible via soft and unpaved roads, and limiting the use of mini and mid-range UAVs (which require soft landing sites).

More generally, the challenge was to take steps to increase the safety of mission members without jeopardizing the ability of the Mission to implement its mandate. For example, despite the increased security precautions, the Mission only slightly reduced the number of patrols in the east (to around 45 patrols per day). At the same time, there was a freeze on deploying new monitors until after an investigation into the incident.

An internal investigation was launched almost immediately by the OSCE’s Office of Internal Oversight (OIO). Furthermore, on 27 April, the Permanent Council called for a “swift, thorough and impartial investigation”

2 Cited in: OSCE Chairmanship/OSCE Special Monitoring Mission in Ukraine, *No alternative but to reduce risk of military escalation in eastern Ukraine, say OSCE Chair’s Special Representative Sajdik and Chief Monitor Apakan*, Vienna, 5 April 2017, at: <http://www.osce.org/chairmanship/309976>.

3 Joseph Stone was posthumously awarded the OSCE medal.

into the incident. The next day, the Chairmanship tasked the Secretary General with putting together an independent team of experts to conduct a forensic post-blast scene investigation. Because the Secretariat lacks expertise in this field, and to ensure the independence of the investigation, the Secretariat asked the International Humanitarian Fact-Finding Commission (IHFFC) to carry out the investigation.

The death of Joseph Stone caused some states to question whether the OSCE was reaching the limits of what a civilian peace operation could do in a war zone. Yet there was no call to pull SMM monitors out of the east. And morale within the Mission remained high.

Some may have pointed to the shortcomings of the SMM, but there were no viable alternatives: A UN peacekeeping operation would probably be vetoed by the Russians, an EU mission would probably not be granted access to areas not under government control, while no OSCE presence would mean the end of any international presence in the region. Therefore, the priority was to keep the monitors safe while maintaining the presence of the SMM in the region.

Despite this tragic incident and a unanimous call from the participating States to respect the SMM's mandate for safe and secure access throughout Ukraine, condemning threats to SMM monitors and damage to SMM assets, threats against the monitors continued. Indeed, they increased. On average, a patrol was shouted at or shot at, surrounded by armed men (often drunk), or was denied access once every three days. In one incident, on 5 May, a (female) mission member was sexually harassed. Most incidents occurred in non-government controlled areas. Furthermore, the Mission's UAVs continued to be regularly shot at or jammed.

The Chairmanship, and many participating States, described such behaviour as "unacceptable", regularly called on the sides to guarantee the safety of the monitors, and warned that those responsible would be held accountable.

But when the Mission reported such incidents to the Joint Centre for Control and Co-ordination (JCCC), there was almost never any follow-up or consequences for the perpetrators. This was symptomatic of a lack of accountability by the sides.

Lack of Accountability

The JCCC appeared like a mushroom in late September 2014 when several dozen Russian officers arrived in eastern Ukraine wearing "OSCE" armbands – despite the fact that they did not work for the Organization.

The Centre quickly developed into a bilateral initiative between the Ukrainian and Russian general staffs. It consists of approximately 75 officers

from both sides, with its headquarters in Soledar in the Donetsk region. The Russian officers rotate every three months.

The JCCC has twenty offices with observer groups as well as observation posts in the Luhansk and Donetsk regions. Russian and Ukrainian observation groups remain co-located in twelve locations. But they almost never conduct joint patrols, nor do they share information.

The OSCE is not part of the JCCC, but it has deployed a team of six liaison officers at JCCC headquarters since April 2016. There are also regular visits and contacts (particularly phone calls and video conferences) between the senior management of the SMM and the senior officers of the Centre.

The JCCC's role is not always clear, as it does not have a mandate or terms of reference. Nonetheless, the 2015 Addendum to the Package of Measures for the Implementation of the Minsk Agreements delegates it the tasks of assisting in ensuring a complete ceasefire along the line of contact, sharing information with the OSCE SMM, responding rapidly to impediments to monitoring and verification by the SMM, and providing security for the OSCE monitors. And yet, in three years, the JCCC has not followed up a single ceasefire violation, nor has it taken action to follow up incidents against the SMM.

Pursuant to a TCG decision of 3 March 2016, the JCCC will carry out the overall co-ordination of demining work and compliance with ceasefire during mine clearance. It should also facilitate prohibition of live-firing exercises. Again, there has been no visible progress on either count.

Indeed, compared to joint military commissions in other parts of the world – including Colombia, Nepal, and South Sudan – the JCCC has several major drawbacks. These include no terms of reference, frequent rotation of members, almost no link to the political process, no participation of the “rebel” groups (and therefore no buy-in), a lack of commonly agreed data or records, and a fundamental lack of trust and communication.

One area where the JCCC has been useful is in facilitating repairs to essential infrastructure close to the line of contact. Working closely with the SMM, the JCCC has often brokered local ceasefires that enable the SMM to carry out mirror patrols. Mirror patrols involve monitors conducting simultaneous patrols on both sides of the line of contact, following an agreement with the Ukrainian and Russian representatives in the JCCC and the sides on the ground. Such patrols are designed to open “windows of silence” during which repairs to critical infrastructure – electricity wires, gas and water pipelines – can be made. Mirror patrols strengthen repair workers' feeling of security and increase the sides' confidence that the windows of silence are not a cover for forward movement or the construction of defensive positions.

A good example occurred in early February 2017, when intense shelling had damaged the power lines supplying electricity to the Donetsk water filtration station and the Avdiivka coke coal plant that provides the city with heating. In freezing temperatures, the city's population of about 22,000 were

about to be evacuated because of a lack of heat or water. The SMM intervened, conducting intensive negotiations under dangerous conditions to enable workers to reach the heavily mined area on the contact line. Repairs were interrupted by renewed violence several times. “It was like Groundhog Day”, recalled Deputy Chief Monitor Alexander Hug. “Our monitors would work all day to enable the repairs, just to wake up the next morning with the news that the power lines had been shelled again”.⁴ After five days of relentless efforts and intense on-the-spot mediation, power was restored and a humanitarian emergency was averted.⁵ Similarly, in July 2017, the JCCC and the SMM worked closely together with demining teams and the utility company to repair and carry out maintenance work on high voltage lines between Mykhailivka and Almanza on non-government controlled territory. These lines had been knocked out for three years. The repair of the line improved the quality of electricity supply to over 150,000 people. Such mirror patrols are an unsung yet highly valuable aspect of the SMM’s work.

Disaster Risk Reduction

The mirror patrols were part of a bigger effort to reduce the vulnerability of critical infrastructure. The SMM regularly reported on potential ecological hazards, particularly those close to the line of contact. For example, on 24 February, a shell hit the chlorine storage area at the Donetsk Filtration Centre, where seven or eight large (900 kg) chlorine gas bottles are stored. If even one of those bottles had exploded, toxic gas would have been released with deadly effects for thousands of people within a radius of several kilometres.

Fighting was also reported – in this highly industrialized region – close to chemical factories, steel works, and power stations. Damage to any of these facilities could unleash a humanitarian and ecological disaster on both sides of the line of contact. Ways were therefore discussed to keep the sides away from such sites, for example by creating “safe zones”.

A longer-term, slow-burning problem is the fate of the region’s closed coal mines. Rising ground water in abandoned mines can poison ground water and rivers, cause explosions (due to methane gas), or even trigger earthquakes.

These issues were regularly discussed in the TCG, but petty squabbles meant that little progress was made in addressing them. Nevertheless, given the seriousness of the problem and the fact that pollution or a disaster would affect people on both sides, the Austrian Chairmanship persisted in pushing for action to prevent a disaster, and address the long-term economic, eco-

4 Interview with the author, 6 July 2017.

5 Cf. OSCE, *OSCE mirror patrols: Windows of hope in Eastern Ukraine*, 12 April 2017, at: <http://www.osce.org/stories/osce-mirror-patrols-windows-of-hope-eastern-ukraine>.

logical and humanitarian consequences of this – quite literally – toxic situation.

Conclusion: No Peace to Keep

In conclusion, Austria's Chairmanship of the OSCE has highlighted both the limitations and the possibilities of the Organization's engagement in Ukraine.

On the one hand, the lack of progress in implementing the Minsk Agreements and the lack of accountability from the sides resulted in the continuation of a low-intensity conflict throughout the year. This made it difficult to improve the overall mood within the OSCE area, exacerbated hardships for the people in the east of Ukraine, and created a risky environment for OSCE monitors.

On the other hand, the Austrian Chairmanship kept the issue high on the OSCE's agenda. It called a number of special Permanent Council meetings to address urgent issues, it sought to maintain strong, consensus-based support for the SMM (particularly in adopting a budget and after the tragic incident of 23 April), and it worked with the Mission and the Secretariat to enhance the SMM's technical monitoring capabilities. The Austrian Chairmanship has also put a sharper focus on the human cost of the conflict by highlighting the plight of civilians and seeking to prevent an ecological disaster.

Furthermore, the Mission's daily unbiased reporting – even under increasingly difficult conditions – continued to provide the international community with a unique source of information about this largely forgotten conflict. It could also be argued that the SMM helped to contain the conflict. And its presence ensured all sides that someone was watching.

But that is not enough. What will it take for the parties to stop shooting, withdraw their weapons, and disengage? The Minsk Agreements are designed to stabilize the situation, but they are not the basis of a peace process. What is the vision for sustainable peace in the region? And how can this relate to a broader strategy of improving trust and co-operation between Russia and Ukraine, and more broadly between Russia and the West?

In short, the SMM is doing a good job at what it can do – particularly when one considers how dramatically the security situation has deteriorated since the mandate was adopted in March 2014. But until there is peace to monitor, the SMM will continue to monitor non-compliance rather than a ceasefire – in a high-risk environment. How long will participating States be willing to accept the risks and costs of a civilian operation in a war zone?

Furthermore, the longer the crisis goes on, the more innocent civilians will be killed and injured. Critical infrastructure will be under threat. And there will be a gaping wound in the side of Ukraine, and the heart of Europe.

It is therefore essential that all those with influence and an interest in peace intensify their efforts to stop the fighting and address the issues that

triggered this conflict in the first place. And it is essential that the parties engage constructively. Otherwise there will be no security or co-operation in Europe.